IQTIṢĀDUNĀ

our economics

WORLD ORGANIZATION FOR ISLAMIC SERVICES

IQTIṢĀDUNĀ

Our Economics

AN OBJECTIVE STUDY CONSISTING OF THE EXAMINATION AND CRITICISM OF THE ECONOMIC DOCTRINES OF MARXISM, CAPITALISM AND ISLAM AS CONCERNS THE FUNDAMENTALS AND DETAILS OF THEIR IDEAS

Muḥammad Bãqir aṣ-Ṣadr

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In the Name of Allãh,
The All-compassionate, The All-merciful

Praise belongs to Allãh, the Lord of all being;
the All-compassionate, the All-merciful;
the Master of the Day of Judgement;
Thee only we serve, and to Thee alone we pray
for succour;
Guide us in the straight path;
the path of those whom Thou host blessed,
not of those against whom Thou art wrathful,
nor of those who are astray.

* * * * *

O' Allãh! send your blessings to the head of
your messengers and the last of
your prophets,
Muḥammad and his pure and cleansed progeny.
Also send your blessings to all your
prophets and envoys.

بِسْمِ اللهِ الرَّحْمٰنِ الرَّحِيمِ
اَلْحَمْدُ لِلّٰهِ رَبِّ الْعَالَمِينَ ۝ اَلرَّحْمٰنِ الرَّحِيمِ
مَالِكِ يَوْمِ الدِّينِ ۝ إِيَّاكَ نَعْبُدُ وَإِيَّاكَ نَسْتَعِينُ
اِهْدِنَا الصِّرَاطَ الْمُسْتَقِيمَ ۝ صِرَاطَ الَّذِينَ
أَنْعَمْتَ عَلَيْهِمْ ۝ غَيْرِ الْمَغْضُوبِ عَلَيْهِمْ
وَلَا الضَّالِّينَ

اَللّٰهُمَّ صَلِّ عَلٰى
سَيِّدِ رُسُلِكَ وَخَاتَمِ أَنْبِيَائِكَ
مُحَمَّدٍ وَآلِهِ الطَّيِّبِينَ الطَّاهِرِينَ
وَصَلِّ عَلٰى جَمِيعِ الْأَنْبِيَاءِ وَالْمُرْسَلِينَ

CONTENTS

CHAPTER TWO

MARXISM

MARXIST CREED :

TRANSLITERATION

ARABIC LETTERS

Symbol	Transliteration	Symbol	Transliteration
ء	’	ك	k
ب	b	ل	l
ت	t	م	m
ث	th	ن	n
ج	j	ه	h
ح	ḥ	و	w
خ	kh	ي	y
د	d	ة	ah; at (c s
ذ	dh		
ر	r	ال	article al (even bef antepala
ز	z		
س	s		
ش	sh		
ص	ṣ		
ض	ḍ		
ط	ṭ		
ظ	ẓ		
ع	‘		
غ	gh		
ف	f		
ق	q		

Long Vowels

آ	ā
و	ū
ي	ī

Short Vowels

ـَ	a
ـُ	u
ـِ	i

تـصـد يـر

١- العلامة الكبير الحجّة، والفقيه المجدّد، والمفكّر الاسلامي العبقريّ السيّد محمّد باقر الصّدر (١٣٥٣ / ١٩٣٥ - ١٤٠٠ / ١٩٨٠) تغمدّه الله برحمته، بآثاره الّتي خلّفها للمسلمين عامّتهم ومفكّريهم، وبحياته الحافلة بجهوده وجهاده الّتي قصّرتها الأيدي الأثيمة - بكلّ أسف - لأشهر وأعرف، وأوسع جانبا، وأعمق دراسة، من أن نؤرّخه في كلمة قصيرة مقتضبة نقدم بها التّرجمة الانجليزية لأثره الشّهير (اقتصادنا).

٢- سبق و أنّ عرّفنا قرّاءنا الكرام بأهمّ آثار السّيّد الصّدر في فاتحة التّرجمة الانجليزيّة لكتاب (المرسل. الرّسول. الرّسالة) واليوم اذ ننشر - بعون الله و تسديده - التّرجمة الانجليزيّة (لاقتصادنا) نجد أنفسنا مضطرّين إلى أن نلفت انتباه قرائنا الكرام الى ما جاء في مقدّمة (اقتصادنا) نفسه، حيث عرض السّيّد الصّدر في نهايتها نقاطا ستّاً رأى من الضّروريّ أن تلحظ، وأن تلحظ بعناية تامّة.

ولا نزيد على ما قاله المؤلف نفسه رضي الله عنه، شيئا سوى أنّ هذه النّقاط الست الّتي وضعها المؤلّف أمام عينه حينما ألّف الكتاب والّتي أكّد على قرّائه أن يضعوها أمام أعينهم حينما يقرأون الكتاب ويدرسون بحوثه كانت نفس هذه النّقاط

ماثلة أمام أعيننا حينما أقدمنا على نشر الترّجمة الانجليزية للكتاب، و نؤكّد على الاهتمام والعناية بها بمثل ما أكّد به المؤلّف، رحمه‌الله.

٣- انّ الترّجمة الانجليزيّة لكتاب (اقتصادنا) قامت بها مؤسّسة (پير محمّد- ابراهيم) الباكستانيّة، باقتراح منّا، و بعد أن تمتّ الترّجمة أحالتها الينا، ولم يكن عندنا، بادئ‌الأمر من بواعث الثقة والاطمئنان الى صحّة الترّجمة وسلامة النّقل ما يدعونا الى أن نسارع الى نشرها؛ فبقيت نسخة الترّجمة عندنا الى أن عثرنا على من عهدنا اليه مراجعتها و تلافي ما يراه من نقص فيها، و بعد ذلك عثرنا على نقائص، ولم يكن ذلك عن طريق المراجعة المستوعبة، وكان من حسن الحظّ أن وجدنا من يفقه اللّغتين العربيّة والانجليزيّة، و له اختصاص بالدّراسات الاقتصادية فقرأ الترّجمة الانجليزيّة و قارنها بالنّصّ العربيّ، و تلافي ما أمكنه تلافيه من نقائص و أخطاء كلّ ذلك حسب اجتهاده ورأيه.

وهنا وجدنا أنفسنا قد وصلنا إلى مرحلة كانت نهاية الشوط لما نملكه من امكانيات و ما نقدر عليه من جهد وسعي، و بذلك يصح منا أن نسعى، بعون الله، إلى نشر الترّجمة ولا يصحّ أن يوصف عملنا بأنّه مجازفة كان التريّث خيرا منه. و مع كلّ هذا فإنّنا نفتح صدورنا لأيّ نقد و ملاحظة يردنا، و نرّحب بأيّ اقتراح يعود الى تحسين عملنا، و نأمل أن نتلافى ما نجده من نواقص و أخطاء فيما نستقبله، بتوفيق الله سبحانه.

و نرجوالله سبحانه أن يجعل في الترّجمة الانجليزيّة لهذا الكتاب كلّ خير و بركة، و أن يعمّ به النّفع، كما صنع بأصله العربيّ و أن يجعل عملنا خالصا لوجهه الكريم، انّه نعم المولى و نعم النّصير.

١٤٠١/١١/٢٧
١٩٨١/٩/٢٦

المؤسّسة العالميّة للخدمات الاسلاميّة
(لجنّة التّأليف والتّرجمة والنّشر)
طهران ـــ ايران

PUBLISHER'S FOREWORD

1. The great Islamic scholar, regenerating jurist and thinker of genius, al-‘Allãmah as-Sayyid Muḥammad Bãqir aṣ-Ṣadr (1353/ 1935 — 1400/1980) may Allãh encompass him with His Mercy, because of the works which he bequeathed to the Muslims, both the ordinary and the educated among them, and because of his life, which was filled with effort and striving, and which was cut short at the hands of criminals, he is too famous and well-known for us to give his biography in this brief preface which we are giving to the English translation of his celebrated book, *Igtisadund,* the Islamic System of Economics.

2. In the preface to the English translation of *The Revealer, The Messenger, The Message* we have introduced the works of as-Sayyid aṣ-Ṣadr to our respected readers. And now that we are publishing the English translation of *Iqtiṣãdunã* we find ourselves compelled to turn the attention of our readers to the preface of *Iqtiṣãdunã* itself, where as-Sayyid aṣ-Ṣadr has mentioned six points which he deemed necessary for the readers to observe, and that also carefully.

We do not wish to say anything more than what the author has mentioned himself, except that these six points, which he introduced while writing the book and emphasized to his readers to keep in their mind while reading the book and studying its

discussions, the same six points were in our mind also when we decided to publish its English translation. And we emphasize, alongwith the author, the careful observation of these points.

3. The English translation of *Iqtiṣãdunã* was prepared by the Peermahomed Ebrãhim Trust of Pakistan at our instigation. After completing the translation it was submitted to us, but at that time we did not have the means to be sure and satisfied about its authenticity. So it remained with us until we found the person who could check and make up the defects in the translation. Then again just by the way we were confronted with some defects, and fortunately we found a person who was familiar with both the Arabic and English languages with qualifications in economical studies. He compared the translation with Arabic version and corrected, according to his own views, as much as he could.

At this point we reached the utmost stage of our abilities and facilities for correction of the translation, and so we deemed it right to publish it, by the help of Allãh; and thus it cannot be said that our efforts were reckless and it would have been better to delay the publication. After all these efforts we shall gladly accept any criticism or observation, and welcome any suggestion to improve our work. We hope to correct the defects and mistakes with which we may be confronted in future.

We ask Allãh, the Glorified, to bless the English translation of this book and to generalize its benefit as He did for the original Arabic version. And may He accept our work sincerely for His Holy Self. He is the best Master and the best Helper.

WORLD ORGANIZATION FOR ISLAMIC SERVICES
(Board of Writing, Translation and Publication)
27/11/1401
26/9/1981
Tehran — Iran.

AUTHOR'S PREFACE

In the name of Allãh, the Merciful, the Compassionate

It pleases me to present the second edition of the book *Iqtiṣãdunã* (Our Economics). I believe more and more firmly and have become more and more convinced that the *ummah* (the Muslim Community) has begun to understand its true mess-age which is Islam and, despite of all kinds of colonial deception, realizes that Islam is the only way to salvation and that the Islamic system is the natural framework within which it should determine its life and expend its efforts and on the basis of which it should build its existence.

I would have liked to have had the opportunity to expand on some topics of the book and to focus more on a number of the points" which it made. However, since I do not have enough space now to talk about the points discussed in the book, I will not leave this matter without saying a word on the subject of the book itself and the relationship of this important subject with the

life and problems of the *ummah* and its gradually in-creasing significance not only on the Islamic level but also on the human level.

On the Islamic level the *ummah* lives its complete *jihad* (holy war in Islam) against its backwardness and its downfall. It is attempting to move, both politically and socially, towards a better existence, a firmer structure and a more prosperous and flourishing economy. After a string of both failed and successful attempts, the *ummah* will find that there is only one path along which to proceed and that is the path of Islam and will find that there is no other framework within which to find solutions to the problems of economic backwardness except the framework of the Islamic economic system.

Humanity on the human level is the enduring of the most severe kinds of worry and the fluctuation between the two world trends, mined with atom bombs, rockets and the tools of destruction. Humanity will find no salvation for itself except at the only door of heaven which remains open and that is Islam.

In this introduction let us take the Islamic leve for discussion.

On the Islamic Level

When the. Islamic world began to get to know the European man and yield to his intellectual guidance and his leadership of the civilization procession, instead of believing in its real message and the guidelines on this message for the life of mankind, it began to comprehend its role in life within the framework of the familiar division' of the countries of the world undertaken by the Europeans. They had divided up the world into countries which were economically advanced and those which were economically poor or backward, on the basis of their economic level and productivity potential. The countries of the Islamic world were all in the latter category which, according to European logic, had to acknow-

ledge the leadership of the advanced countries and give them free scope to infuse their spirit in them and map out for them the road to advancement.

In this way, the Islamic world, as a group of economically poor countries, began its life with Western civilization and came to view its problem as the problem of economically lagging behind the advanced countries whose economic progress had given them the leadership of the world. Those advanced countries taught the Islamic world that the only way to overcome this problem and to catch up with the advanced countries was for it to adopt the life-style of the European man as a leading practice and to mark out the steps of this practice in order to build up a perfect and complete economy capable of raising the backward Islamic countries to the level of the modern European nations.

Subordination in the Islamic world to the practice of the European man, as the leader of modern civilization, has expressed itself in three successively occurring forms and these forms still exist today in different parts of the Islamic world.

The first is political subordination which found visual expression in the economically advanced European nations exercising of direct rule over the backward nations.

The second is economic subordination which went hand in hand with the rise of politically independent governments in the backward countries. This subordination found expression in the European economy being given full scope to play on the scene of these countries in different ways: to exploit their chief resources, to fill their vacuum with foreign capitalism and to monopolize a number of economic conveniences on the pretext of training the natives of the various countries to shoulder the burden of the economic development of their countries.

The third is subordination in method which was practiced by the people of the Islamic world in numerous experiments. Through these experiments, they tried to gain political independence

dence and get rid of the domination of the European economy. They began to think of reliance on their own power to develop their economy and overcome their backwardness. However, they were only able to understand the nature of the problem shown by their economic backwardness within the framework of the European understanding of it.

Therefore, they were forced to choose the same method the Europeans had adopted in building up their modern economy.

Great differences in points of view arose with regard to those experiments, while the method was being drawn up and applied. However, these differences were sometimes merely concerned with the choice of the general form the method should take from among the numerous forms the method had taken when the modern European man had applied it. The choice of method practiced by the modern European man was, in fact, a point of agreement because it was the tax of the intellectual belief of the Western civilization. It was the determining of one of its forms which led to disagreement.

The recent experiments in economic development in the Islamic world have usually been faced with two forms used in the economic development of the modern civilization. The two forms are the free economy based on capitalism and the planned economy based on socialism.

Both of these forms have been used a great deal to build up the modern European economy. The question which arose with regard to the study of the maximum level of application in the Islamic world was, "which is the most appropriate of the two forms and the one most capable of bringing success to the struggle of the *ummah* against its economic backwardness and the building up of an advanced economy of the level of the age?"

The oldest tendency in the Islamic world was to choose the first form in the development and building up of the internal economy of the various countries, i.e. the free economy based

on capitalism. This was because the capitalist axis of the European economy was the quickest of the two axes to penetrate the Islamic world and to polarize its countries as the centres of authority.

Through the political struggle of the *ummah* with colonialism and its attempts to free itself from the influence of the capitalist axis, some ruling experiments resulted in the discovery that the European antithesis to the capitalist axis was the socialist axis. Thus, there grew up a tendency to choose the second form for development, i.e. the planned economy based on socialism. This was as a result of the reconciliation between the belief in the European man as the leader of the backward countries and the reality of the struggle with the political existence of capitalism.

The subordination of the backward countries to the economically advanced countries still imposes upon them the belief in European practice as a leading principle. Moreover, the capitalist wing of this practice still clashes with the feelings for battle against the living colonial reality. Thus, the planned socialist economy was adopted as the other form of leading practice.

Each of the two trends has its own proofs with which it justifies its own point of view. The first trend usually uses the great advancement which the capitalist European states have attained and the levels in production and industrialization they have reached as a result of the adoption of the free economy as the method for development. In addition to this, it is possible for the backward countries, if they adopt the same course and undergo the same experience, to take a short cut and reach the desired level of economic development more quickly. This is because they will be able to benefit from the European man's experiences in capitalism and employ all the working skills which the Europeans have taken hundreds of years to acquire.

The second trend explains its choice of the planned economy based on socialism, instead of the free economy, by the

fact that, although the free economy was able to produce for the leading European states in the capitalist world great gains, constant progress in technology and production and steadily increasing growth in their wealth, it is not capable of playing a similar role for the backward countries today. This is because the backward countries are today facing a great economic challenge represented by the great degree of progress the states of the west have attained and are confronted with unlimited rival possibilities on the economic level. Whereas the advanced states were not really faced with this great challenge, nor confronted with these rival possibilities, when they embarked on economic development; they launched their attack against conditions of economic backwardness and adopted the free economy as a course and procedure. Thus, it is necessary for the backward countries today to mobilize all forces and capabilities, both quickly and systematically, for the job of economic development by means of the planned economy based on socialism.

In its interpretation of the failure in application it has suffered, each of the two trends uses as an excuse the artificial conditions which the colonialists create in the region in order to hinder development procedures there. On account of this neither allows itself, when it senses failure, to think of any alternative method to the two forms which modern European practice has adopted in the west and east. This is despite of the existence of a ready-made alternative which is still very much alive, both theoretically and ideologically, in the life of the *ummah,* even if it is not being given the opportunity to be applied. And that is the Islamic method and economic system in Islam.

Here, I do not want to make a comparison between the Islamic economy and the capitalist and socialist economies from the economic and religious points of view because I am leaving this for the book itself. In fact, the book, *Iqtiṣãdunã* makes a comparative in this respect. However, I would like to make a

comparison between the European economy, both its capitalist and socialist wings, and the Islamic economy with regard to the capacity of each to participate in the battle of the Islamic world against economic backwardness and the degree of ability of each of these methods to be the framework for the job of economic development.

When we leave the sphere of comparison between these economic methods, with regard to their intellectual and religious contents, for a comparison between them in respect of their practical ability to offer a framework for economic development, we must not merely base our comparison on the theoretical advantages of each. Rather, we must observe closely the circumstances of the *ummah* with regard to this subject, along with its spiritual and historical structure. This is because the *ummah is* where these methods will be applied. Thus, it is necessary for the assumed field of application, its particularities and its conditions to be carefully studied so that whatever is valuable in each method by way of effectiveness in application can be observed. Just as the effectiveness of the capitalistic free economy or the socialistic planned economy in the practice of the European man does not necessarily mean that this effectiveness is due to the economic method alone, such that it increases when the same method is adopted. Rather, the effectiveness is due to the method, as a part of each inextricably intertwined and part of the course of History. Thus, if the method is detached from its framework and its history, it will neither have such effectiveness nor yield such fruits.

Through a comparative study of the numerous economic schools and the possibilities of their practical success in the Islamic world, a basic fact should be presented with which the estimation of the situation is to a great extent connected. That is, that the need of economic development for an economic method is nothing but a need for a framework of social organization for states to adopt, so that it is possible for economic

development to be planned within this framework or the other merely by the state adopting it and adhering to it.

It is not possible for economic development and the battle against backwardness to play its due part except by acquiring a framework within which the *ummah* can be incorporated and by establishing a principle which is in harmony with it.

The movement of the entire *ummah is* a basic condition for the success of any development and any universal battle against backwardness. This is because the movement of the *ummah* is an expression of its growth, the growth of its will and the release of its inner talents and wherever the *ummah* fails to grow, the job of development cannot be carried out. Thus, the increase in foreign wealth and internal growth must proceed along the same course.

The very experience of the modern European man is a clear historical expression of this fact. The only reasons that the methods used in the European economy as frameworks for the job of development recorded in modern European history their dazzling success on the material level was the interaction of the nations with these methods, their movements in all fields of life in accordance with the direction and the demands of these methods and their great mental readiness over the years for this assimilation and interaction.

Thus, when we want to choose a method or a general framework for economic development inside the Islamic world, we must take this reality as a base and in the light of it search for a cultural system capable of raising the *ummah* and mobilizing its forces and its faculties for the battle against backwardness. Then, we must enter into this account the feelings, attitude, history and different complexities of the *ummah*.

Many of the economists make a mistake when they study the economy of the backward countries and apply to them the European methods of development without taking into account

the degree to which it is possible for the peoples of those countries to combine with these methods and the extent to which these methods are capable of being closely united with the *ummah*. There is for example the special psychological feeling of the *ummah* in the Islamic world towards colonialism. This feeling is marked by doubt, suspicion and fear as a result of a long bitter history of exploitation and struggle. Moreover, this feeling has created in the *ummah* a kind of recoiling from the European man's organizational gifts and a certain amount of apprehension in face of and a strong feeling against the organizations derived from the social practices in the countries of the colonialists. Even though these organizations may be good and free from colonialism from the political point of view, this feeling makes them incapable of creating an outlet for the forces of the *ummah* and leading it in the battle for construction. Therefore, by virtue of its psychological circumstances which the age of colonialism created and its recoiling from whatever is connected with it, the *ummah* must base its modern revival on a social organization and cultural particularities which are not related in origin to the countries of the colonialists.

It is this clear reality which has made a number of political gatherings in the Islamic world think of adopting nationalism as a philosophy, a cultural basis and a basis for a social structure in their endeavour to present slogans completely separate from the colonialist way of thinking. However, nationalism is merely a historical and linguistic bond; it is not in itself a philosophy with an ideology, nor a doctrine with fundamentals. Rather, it is by nature neutral in face of the absence of philosophies and social, ideological and religious doctrines. Therefore, it is in need of adopting a specific point of view with regard to existence and life and a particular philosophy on the basis of which the characteristics of its culture, revival and social structure can be fashioned.

It seems that many of the nationalist movements have also had that feeling and have realized that nationalism as raw material is in need of adopting a social philosophy and a specific social system. Thus, it has tried to reconcile that with the originality of the slogan which it enhances and its dissociation from the European man. Therefore, nationalism has proclaimed Arab socialism because it has realized that nationalism alone is not sufficient. It was in need of a system and proclaimed socialism within an Arab framework, in order to get rid of the strong reaction of the *ummah* to any slogan or philosophy connected with the colonial world. Therefore, nationalism, by ascribing socialism to Arabism, tried to conceal the foreign reality represented in socialism from the historical and intellectual points of view. It is a futile cover, though, which cannot succeed in fooling the *ummah*. This is because this shaky framework is nothing but an apparent and vague framework of the foreign content, represented by social-ism. Or else, any role this framework plays in the socialist field of organization and any development of the Arab factor in this matter do not mean that "Arabic" as a language and "Arab" as history, blood and race further a specific philosophy for the social structure. Rather, everything that falls into the field of application is due to the "Arab" factor. In the field of application this factor came to mean the exclusion of that in socialism which was incompatible with the prevailing traditions in Arab society which possible circumstances had not yet come to change, such as spiritual tendencies, including belief in God. Thus, the Arab framework does not give socialism a new spirit which differs from its existing intellectual and ideological situation in the colonial countries. Rather, by this is meant the expression of specific exceptions which may be temporary but the exception does not alter the essence of the matter, nor the true content of the slogan. Moreover, the propagandists of Arab socialism cannot possibly make basic distinctions between Arab, Persian or Turkish socialism,

nor can they explain how socialism differs by merely being given this or that nationalistic framework. This is because, in reality, the content and essence do not differ. Rather, these frameworks give expression to exceptions which may differ from one nation to another in accordance with the specific prevailing customs among the nations.

Despite the fact that the propagandists of Arab socialism have failed to present a new genuine content for socialism by giving it an Arab framework, they, by this stance of theirs, have confirmed that fact which we have mentioned: that the *ummah,* by virtue of its sensitivity due to the period of colonization, can only build the modem renaissance on a firm basis which, in the mind of the *ummah, is* not connected with the countries of the colonialists.

Here a big difference emerges between the methods used in the European economy which are connected, in the mind of the *ummah* with the colonialists — no matter what frameworks these methods are given — and the Islamic method which is, in the mind of the *ummah,* linked with its own history and glory, is an expression of its nobility of descent and does not bear any stamp of the countries of the colonialists.

The feeling of the *ummah* that Islam is the expression of its very self, the sign of its historical personality and the key to its former glory is a very great factor of success in the battle against backwardness and along the road towards development, if the method is adopted from Islam and if a framework for the starting point is taken from the Islamic system.

Apart from the complex feeling of the *ummah* in the Islamic world in face of colonialism and all methods connected with the countries of the colonialists, there is another complication which also greatly hinders the success of the modern methods of the European economy if they are applied in the Islamic world. This complication is the incompatibility between these methods and the religious belief

of the Muslims. I do not want to talk about this incompatibility here, so that I can make a comparison between the religious standpoint and the standpoint adopted by those methods. Nor do I want to give preference to the former over the latter — that is, I do not want to discuss this incompatibility from the ideological or religious points of view. However, I will try to present this incompatibility between the methods of the Europeans and the religious belief of the Muslims as a force within the Islamic world regardless of its value. However much we have believed it (this force) to be suffering from disunity and disintegration as a result of what colonialism did to its detriment in the Islamic world, it still has great influence in directing attitudes, raising feelings and determining opinions. It has already been explained that the process of economic development is not merely a process which the state applies and adopts and for which it legislates; it is a process in which the whole *ummah* participate and have a share in one way or another.

If the *ummah is* aware of any incompatibility between the supposed framework for development and a belief which it still feels strongly about and some of whose opinions on life it still retains, then it *(the ummah)* will, according to the extent it combines with that belief, shrink from the process of development and from being incorporated into its supposed framework.

Contrary to that, the Islamic system is not faced with this complication and is not afflicted with that type of incompatibility. Rather, if it is applied, the Islamic system will find in the spiritual doctrine great support and a contributive factor in the success of development planned within its framework. This is because the Islamic system is based on the principles of the Islamic *shari `ah* (revealed law). Muslims generally believe in the sacredness and inviolability of these principles and that they should be implemented in accordance with their Islamic faith and their belief that Islam is a religion which was revealed to

the seal of the prophets (Muḥammad — s. a. w. a.) .

There is no doubt that the most important factors in the success of the methods which are adopted for the regulation of social life are people's respect for these methods and their belief that these methods have the right to be implemented and applied.

Assuming that a practice of economic development based on the methods used in the European economy were able to do away with the religious doctrine and its passive force in face of those methods, this would not be sufficient to destroy all that has been built on the basis of this belief over a period of four centuries or more and has played a great part in the shaping of man's spiritual and intellectual framework in the Islamic world. Just as doing away with the religious belief does not mean that a European base has been procured for those methods which succeeded at the hands of the Europeans because they had found a suitable base capable of combining with them.

In fact, there is an Islamic moral practice which is to a certain degree prevalent in the Islamic world and there is the moral practice of the European economy which accompanied the modern western civilization and which move for it its general spirit and facilitated its success on the economic level.

The two moral practices are fundamentally very different in tendency, outlook and their appraisal of things: in the same measure as the moral practice of the modern European man lends itself to the methods of the European economy, the moral practise of the people of the Islamic world will be in conflict with it. The moral practice of the Islamic world is deep-rooted and cannot possibly be eradicated merely by diluting the religious belief. Just as the plan — the plan of battle against backwardness — must take into account the resistance of nature to the extent of its revolt against the methods of production in the country for which the plan is intended. The plan must also take into account the resistance of the human race and the extent

to which the latter can harmonize with this or that plan.

The Europeans always look at the earth, not at heaven, even Christianity which the Europeans have believed in for hundreds of years has not been able to triumph over the worldly inclination of the European man. Instead of lifting his gaze up to heaven, the Europeans managed to make the god of Christianity descend from heaven to earth and incarnate him as an earthly being.

The scientific efforts to trace the origin of mankind in the animal species and to explain his humanity on the basis of subjective conditioning to the earth and the environment in which man lives, or the scientific efforts to explain the whole human structure on the basis of the productive forces which represent the earth and the potentialities on it are merely an attempt to make God descend to earth, even though those efforts may differ in method and scientific or mythical character.

This looking at the earth has made the European man create values for material things, wealth and possession which are in keeping with that attitude.

These values which have taken root in the European man over the years have been able to express themselves in ideologies based on pleasure and gain which swept away moral philosophical thought in Europe. These ideologies, as a product of Europen thought which registered great success on the intellectual level in Europe, have their spiritual importance and are an indication of the general mood of the European spirit.

These special values for material things, wealth and possession have played a great role in using the energy bottled up inside every individual of the *ummah* and in establishing aims for the process of development which are compatible with those values. In this way, there was in all parts of the *ummah* a continous active movement simultaneous with the rise of the modem European economy; a movement which would never feel weary of nor sated with material things, their benefits

and the possession of those benefits.

Likewise, the European man's severance of the true link with God, the Most High, and his looking at the earth instead of heaven has removed from his mind any real thought of a more sublime value or of restrictions imposed on him from outside his own domain. Moreover, that has inclined him both spiritually and mentally towards belief in his right to freedom and has submerged him in a flood of feeling for independence and individuality. This was then to be translated into the language of philosophy or expressed on the philosophical level by a greater philosophy in the modern history of Europe, and this was existentialism, since existentialism crowned with the philosophical form those feelings which pervaded the modern European man. Thus, he found in existentialism his hopes and his feelings.

Freedom has played a major role in the European economy. It has been possible for the process of development to benefit from the deep-rooted feeling for freedom, independence and individuality pervading the Europeans in the success of the free economy, as a device which is compatible with the deep-rooted inclinations and ideas of the European peoples. Even when the European economy presented a socialist method, it also tried to base itself on the feeling of individuality and selfishness, but this time it was class individuality instead of the individuality of a person.

The absence of any feeling of moral responsibility was a basic precondition in many of the activities which were part of the process of development. And all of us know that it was the deep feeling of freedom which prepared the ground for the fulfilment of this precondition.

Freedom itself was instrumental in the European man's understanding of the struggle because it made each person burst forth, only restrained by the existence of the other person stand-

ing in front of him. For each individual, by his very existence, would deny the other person his freedom.

In this way, the notion of the struggle developed in mind of the European man. This concept has been expressed on the philosophical level just like the rest of the fundamental concepts which produced the vein of the modern Western civilization. This concept — the concept of the struggle — was expressed in the scientific and philosophical ideas about the struggle for existence as a natural law among the living, about the inevitability of the class struggle in the society or about dialectics and the explanation of existence on the basis of the thesis and its antithesis and the compound arising from the struggle between opposites.

In fact, all these tendencies, whether scientific or philosophical, are above all an expression of a general spiritual reality and a strong awareness of the struggle among the people of the modern civilization.

The struggle greatly influenced the direction of the modern European economy and all the development procedures which accompanied it, whether it was a struggle between individuals which was expressed in the frantic and unlimited rivalry, under the auspices of the free economy, between the various institutions and the capitalist plans of various individuals which were increasing and promoting universal wealth through their struggle and fight for survival, or whether it was a struggle between classes which was expressed in revolutionary gatherings which took control of production in the county and set in motion all forces for the benefit of economic development.

This is the moral practice of the European economy and on this ground the economy has been able to begin its movement, effect its growth and register its enormous gains.

This moral practice differs from the moral practice of the *ummah* in the Islamic world as a result of its long religious history. The Eastern man who was brought up on the Divine messages

which were present in his country and who went through an extensive religious upbringing at the hands of Islam, by native, look at heaven before looking at the earth and embraces the world of the *ghayb* (unseen, invisible) before embracing material things and that which is perceptible through the senses.

His profound infatuation with the world of the "unseen" over and above the visual world was expressed on the intellectual level in the life of the Muslims. Consideration of the Islamic world was directed towards the intellectual domains of human knowledge, not the domains which are connected with the tangible reality.

His profound feeling for the invisible world has curbed the force of the Muslim man's attachment to material things and their ability to stimulate him.

When the man in the Islamic world rids himself of the spiritual incentives to interact with material things and his attachment to their profitable use, he adopts a negative stance in face of them, a stance which takes the form of either abstinence, contentment or layness.

This feeling for the "unseen" has trained the Muslim to feel the presence of an invisible supervision which, in the conscience of the pious Muslim, is an expression of a clear responsibility in the presence of God, the Most High. In the mind of another Muslim, it is an expression of a restricted and guided mind. In any case, this feeling for the invisible keeps the Muslim man away from the feeling for individual and moral freedom in the way which the European man feels it.

As a result of the Muslim's feeling of an inner restriction with a moral basis for the good of the community in which he lives, he feels a strong bond with the group to which he belongs. The Muslim also perceives harmony between him and his community instead of the concept of the struggle which dominated modern European thought. The international framework of the

message of Islam which places the responsibility of its existence on a world-wide basis and its spreading with time and place on the bearers of this message has consolidated the Muslim's concept of the community.

The gradual interaction of the man in the Islamic world with an international message for the human community implants in him the feeling for internationality and the link with the community. If we regard this moral practice of the Muslim man as a reality in the existence of the *ummah*, then it might be possible to benefit from it in supplying a method for the economy inside the Islamic world. The method could then be placed within a framework accompanying this moral practice, in order to produce a driving force. Just as the moral practice of the methods used in the modern European economy was a major factor in the success of those methods when there was harmony between the two.

The Muslim's contemplation of heaven before the earth may lead to a negative stance with regard to the earth and the wealth and benefits on it. This stance may find visual expression in abstinence, contentment and laziness, if the earth is separated from heaven. However, if the earth is given the framework of heaven and work with native is accorded the quality of "duty" and the meaning of "worship", then the Muslim's contemplation of the "unseen" will transform into a driving force for the greatest possible participation in the raising of the economic level. Instead of the coldness towards the earth which the negative Muslim feels today or the spiritual uneasiness which the active Muslim frequently feels who moves in accordance with the methods of the free or socialist economies, there will be complete harmony between the disposition of the man in the Islamic world and his future positive role in the process of development, even if he is not a very committed Muslim.

The Muslim man's concept of this inner restriction and invisible supervision prevents him from experiencing the notion

of freedom in the way the European man understands it. This concept may to a great extent help in averting the difficulties arising from the free economy and the problems confronting economic development under its protection, by means of a general plan which, in the mind of the Muslim man, draws its legitimacy from his concept of the inner restriction and invisible supervision, that is, this plan must be based on the justification of a moral practice.

In addition to what has already been mentioned, it is possible for the community and the link with it to participate in mobilizing the forces of the Islamic *ummah* for the battle against backwardness, if the battle is given a slogan which is in accordance with that feeling, like the slogan of *jihãd* to protect the *ummah.*

The Holy Qur'an has ordered *jihãd: And prepare against them what force you can. . .* (8:60). Thus, the Qur'an has ordered the preparation of all forces, including all economic forces represented by the level of production, as a part of the battle and *jihãd* of the *ummah* to preserve its existence and sovereignty.

Here emerges the importance of the Islamic economics as the economic method capable of benefiting from the moral practice of the Muslim man (which we have already seen) and the transformation of this moral practice into a driving force in the process of development and the success of a healthy plan for economic life.

When we adopt the Islamic system, we will be able to benefit from this moral practice and mobilize it in the battle against backwardness, contrary to if we adopt economic methods which are connected, both spiritually and historically, with the ground of another moral practice.

Some European thinkers have also begun to realize this fact and become fully aware that their methods are not in accordance with the nature of the Islamic world. As an example, I will cite Jacques Oustravi (?). He has plainly recorded this observation in

his book *Economic Growth*, despite of the fact that he has failed to bring out the tactical and logical sequence of the existence of the European moral practice and the rise of the Islamic moral practice and the organization of its circles and has omitted some of the diversions of the two moral practices. Thus, he has embroiled himself in a number of mistakes. It is possible to rely completely on the exposive of these mistakes by the venerable Professor Muḥammad al-Mubarak in his introduction to the book and by Dr. Nabil Ṣubḥi aṭ-Ṭawīl who translated the book into Arabic. However, I would like to enlarge on this subject at the nearest opportunity. For the moment, though, I will content myself with saying that the Muslim man's inclination to heaven does not in its basic sense mean the submission of man to fate, his dependence on circumstances and opportunities and his feeling of incapacity to create and invent, as Jacques Oustravi (?) tried to suggest. Rather, this inclination of, the Muslim man is, in fact, an expression of the beginning of the *khilãfah* (caliphate) of man on earth. This, by nature, he inclines to the realization of his position on earth as God's *khalīfah* (caliph). I do not know a concept more rich than the concept of caliphate to God, as conformation of man's capability and his powers which make him the caliph of the Absolute Master (Allãh) in the universe. Likewise, I do not know a meaning further from the true meaning of caliphate to God than submission to fate and circumstances. This is because caliphate infers responsibility towards that over which one is appointed caliph and not responsibility without freedom, feeling of choice and authority to pass arbitrary judgement on conditions. Otherwise, what sort of caliphate is this, if man is restricted or directed?

Therefore, we have said that given the earth the framework of heaven creates an outlet for the forces of the Muslim man and stimulates his capabilities. Whereas separating the earth from heaven makes caliphate meaningless and freezes the Muslim

man's contemplation of the earth in a negative external form. For negativism does not spring from the very nature of the Muslim's contemplation of heaven, but from the suspension of the great driving forces in this contemplation, as the earth is given to man within a framework which is not in harmony with that contemplation.

In addition to all that has gone before, we may observe that the adoption of Islam as a basis for general organization allows us to establish all of our life, both spiritually and socially, on one basis. This is because Islam covers both the spiritual and social sides of life while many of the other social systems are limited to the social economic relations of the life of man and others like him. Thus, if we take our general programs for life from human sources instead of the Islamic system, we will not be able to do without another organization for the spiritual side of life. Moreover, Islam is the only suitable source for the organization of the spiritual life. Thus, it is necessary to have one basis for both the spiritual and social sides of life, particularly since the two sides are not isolated from one another. Rather, they largely interact with one another, and this interaction makes there being one basis for the two more sound and more harmonious, considering the definite intertwining of spiritual and social activities in the life of man.

Muḥammad Bãqir aṣ-Ṣadr
an-Najaf — Iraq.

AUTHOR'S FOREWORD TO THE FIRST EDITION

In the name of Allãh, the Merciful, the Compassionate

Dear readers, when we went our different ways at the end of the book *Falsafatunã* (Our Philosophy), we agreed to meet again. I told you before that *Falsafatunã is* the first of our Islamic studies. It is a study which deals with the lofty Islamic structure — the ideological structure of unity — followed by studies which are connected with the final touches in that Islamic structure, so that, at the end, we will have a complete mental picture of Islam, as a living doctrine in the heart of man, a complete system of life and a special method in education and thought.

We stated this in the introduction to *Falsafatunã*. We assumed that *Our Society* would be the second study in our research in which we would discuss the ideas of Islam concerning mankind, his social life and his method of analyzing and explaining the social compound. It was our intention to finish with that, then move on to the third stage — to the Islamic system for life which

is connected with the social ideas of Islam and which is based on its firm ideological structure. However, the insistent desire of the readers was that we should defer *Our Society* and begin with the publication of *Iqtiṣãdunã* (Our Economics) since they are eager to be acquainted with a detailed study of the Islamic economics, its philosophy, its fundamentals, its outlines and its directives.

Therefore, we have devoted ourselves to completing *Iqtiṣãdunã* in an attempt to present in it a relatively complete picture of the Islamic economics, as we understand it today from its sources.

I was hoping that this meeting of ours would be sooner. How-ever, overpowering circumstances resulted in some delay, despite of the effort I exerted along with my dear assistant, the most erudite and venerable, Muḥammad Bãqir al-Hakim, to complete this study and present it to you in the shortest time possible.

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I would like to say here above all something about the words "Our Economics" or the words "Islamic Economics" about which the studies of this book are concerned. I would like to say what I mean by these words when I use them because the word "Economy" has a long history in human thought. This long history has given this word some measure of obscurity as a result of the various meanings which are applied to it and the coupling in meaning between the scientific and doctrinal sides of the economy. Thus, when we want to know the exact meaning of the Islamic economics, we must distinguish the science of the economy from the economic doctrine and become aware of the extent of interaction between scientific and doctrinal thought, in order that we may finish with that and move on to determine what is meant by the Islamic economics to the study of which we devote ourselves in this book.

AUTHOR'S FOREWORD TO THE FIRST EDITION

The science of the economy is: the science which deals with the exposition of economic life, its events, its outward signs and the connection of those events and outward signs with the reasons and general factors which control them.

This science has recently come into being — in fact, to take the exact meaning of the word, it only came into force at the start of the Capitalist age, around about four centuries ago — even though its primitive roots extend into the depths of history. Every civilization has participated in economic thought as far as possible. However, the first exact scientific inference in the history of economics is indebted to recent centuries.

The economic doctrine of the society is an expression of the course which the society prefers to follow in its economic life and in solving of its practical problems.

On this basis, it is not possible for us to imagine a society without an economic doctrine because every society which practises the production and distribution of wealth must have a method on which it agrees in organizing these economic activities . . . And it is this method which determines its doctrinal position with regard to economic life.

There is no doubt that the choice of a specific method for the organization of economic life is not absolutely arbitrary. Rather, this choice is always based on particular ideas and concepts with a moral or scientific stamp or some other characteristics. These ideas and concepts produce the intellectual balance of the economic doctrine based on them. When a certain economic doctrine is studied, it must be dealt with in respect to its method in the organization of economic life and its balance of ideas and concepts with which the doctrine is connected. If we study, for example, the capitalist doctrine advocating economic freedom, then it is necessary for us to examine the fundamental ideas and concepts on which Capitalism's glorifying of and belief in freedom are based.

This is the situation with regard to every doctrinal study. Ever since the birth of economics, its path has passed through the field of economic thought. Some scientific theories on the economy have begun to shape a part of the intellectual balance of the doctrine.

When the merchants for example — and they are the precursors of modern economic thought — claimed that they explained the amount of wealth each nation possessed from the scientific point of view as: the extent to which the nation is in possession of ready money, they used this idea in laying down their commercial doctrine. Thus, they encouraged foreign trade, as the only way of obtaining ready cash from abroad, and established an economic policy which would lead to the value of exported goods exceeding the value of imported goods, so that ready cash would come into the country in accordance with the increase in exports.

When the naturalists came up with a new interpretation of wealth based on the belief: that agricultural production not trade and industry, is the only production which guarantees the growth of wealth and the creation of new values, they established in the light of the so-called scientific interpretation a new doctrinal policy which aims at work for the flourishing and advancement of agriculture, as the basis of all economic life.

When Maltis (?) in the light of his scientific calculations established his famous theory: that the growth of mankind is relatively more rapid than the growth of agricultural production and that this would definitely lead to a great famine in the future of mankind, on account of the number of people exceeding the amount of foodstuffs, he propagated birth control and set out political, economic and moral methods for this propagation.

When the socialists explained the value of the commercial article as work expended in the production of this article, they condemned capitalistic gain and embraced the socialist doctrine

in distribution. This doctrine believes that the worker is the only one who has the right to the product since he is the only creator of the value which the product enjoys.

Thus, all scientific theories have begun to influence the doctrinal view and light up the way for doctrinal scholars.[1]

After that came the part of Marx. He added something new to the intellectual balance in the economic doctrine and that was the science of history or what he called "Historical Materialism" in which he claimed that he had discovered natural laws which controlled history. He expressed the doctrine as an inevitable result of these laws. In order that we should be acquainted with the economic doctrine which must prevail at a specific stage in history, we should consult those unalterable laws of the nature of history and discover the requirements in that stage.

On account of that, Marx believed in the socialist and communist doctrine as the inevitable result of the laws of history which began to produce this doctrine in this stage of the life of man. Therefore, the economic doctrine was counted with the school of the science of history just as it was linked before that with some of the studies in economics.

On this basis, when we use the words "the Islamic economics", we do not mean by that directly "economics" because economics is a relatively new science and because Islam is a missionary religion and a way of life, its real job is not the pursuit of scientific studies . . . Rather, we mean by "the Islamic econ-

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1. We must observe here that many of the scientific theories in economics have an extremely negative attitude with regard to the doctrine, just like the theories which explain various matters of economic life set out within a firm doctrinal framework. The doctrinal view is directly influenced by the theories which deal with general matters in the economic field, not relative matters set out within this or that particular framework.

omics": the economic doctrine of Islam which embodies the Islamic system in the organization of economic life on the strength of the balance of thought this doctrine possesses and denotes and which is made up of the moral ideas of Islam and the scientific, economic or historical ideas which are linked with the problems of economics or the analysis of the history of human societies.

So, we mean by "the Islamic economics": the economic doctrine observed within its complete framework and in its link with the intellectual balance on which it depends and which explains the doctrine's point of view in respect to the issues with which it is concerned.

This intellectual balance is determined for us in accordance with direct announcements or the light which the same doctrine throws upon the matters of the economics and history. Thus, the scientific amalgamation of Islam in the studies of economics or "Historical Materialism" is the philosophy of history . . . and can be studied and investigated through the doctrine which it embraces and propagates.

When we want to be acquainted with, for example, the opinion of Islam, from the scientific point of view, on the exposition of the value of the commodity, the determination of its source, how the value of the commodity arises and whether this value is acquired as a result of work alone or some other factors, we must examine Islam's doctrinal point of view with regard to capitalist gain and the extent of its acknowledgement of the fairness of this gain.

When we want to know the opinion of Islam on the truth of the role which capitalism, the tools of production and work play in the process of production, we must study the rights which Islam has given to each of these elements in the field of distribution, as is lawful according to the principles of "letting",

“silent partnership”, “*musãqãt*” [1], “*muzãra`ah*” [2], "sale" and "loan".

When we want to know the opinion of Islam on Maltis' aforementioned theory, regarding the enormous increase in population, we may understand it in the light of Islam's stance with regard to its general policy of birth control.

If we should want to find out Islam's opinion on "Historical Materialism" and the alleged developments of history in it, we may discover this by examining the constant nature of the economic doctrine in Islam and its belief in the possibility of this doctrine being applied in all stages of history through which man has lived ever since the appearance of Islam, and so on.

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And now, having defined the meaning of "the Islamic economics" in a way which will make easy the understanding of future studies, we must discuss briefly the chapters of the book. In the first chapter, the book deals with the Marxist doctrine, bearing in mind that he possesses a practical balance which finds visual expression in "Historical Materialism". First of all, we examined this intellectual balance. Then, we moved on directly to a criticism of the doctrine. We left that subject, having destroyed the alleged scientific fundamentals on which the doctrinal essence of Marxism is based.

The second chapter is devoted to the study and criticism of capitalism and the determining of its relationship with economics.

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1. “*Musãqãt*”, a share-cropping contract over the lease of a plantation limited to one crop year (Islamic Law).
2. “*Muzãra`ah*”, *a* temporary share-cropping contract (Islamic Law)

The study of the Islamic economics begins directly in the third chapter. In that chapter we discussed a number of the basis ideas on this economics. Then, we moved on to the particulars in other basic principles, in order to describe the system of distribution and production in Islam, on the strength of the particulars the two systems comprise with regard to: the distribution of the natural wealth, the limitations of private ownership, the principles of balance, mutual agreement, collective responsibility, the financial policy, the mandatory power of the government in economic life, the role of the elements of production: work, capitalism and the tools of production, and the right of each to the wealth produced, plus all the other different aspects which have a share in the presentation of the complete clearly defined picture of the Islamic economics.

Finally, there remain a number of points connected with the studies of the book, particularly in the last chapters which examine the details of the Islamic economics; and they must be noted down from the beginning :

a) The Islamic views on that which is connected with the juristical sides of the Islamic economics are presented in this book in a way which is free from the methods of deduction and scientific research which are employed in the wider juristical studies. When these views are supported by Islamic documents, such as verses and narratives, by that is not meant the scientific evidence of the legal principle, because proof of the principle with a verse or a narrative does not mean simply the rendition of this verse or narrative. Rather, this evidence requires such depth, exactness and comprehension that is beyond the purpose of the writing of this book.

Over and above the occasional presentation of those verses and narratives, we have in view the procuring of a general piece of knowledge for the reader, supported by Islamic documents.

b) The juristical opinions which are presented in the book

do not need to be taken from the author himself, for the book deals with opinions which are juristically at variance with the "*ijtihãd*"[1] of the book on the matter. However, the general characteristic which has been greatly observed in those opinions is: that they are the result of the *ijtahãd* of one of the "*mujtahids*"[2], irrespective of the number of people holding the opinion and the stance of the majority with regard to it.

c) The book sets forth legal principles in a general way, without going into particulars and precepts outside their domain, in view of the fact that the book does not extend to all details and branches.

d) The book always confirms the link between the Islamic principles but that does not mean that they are principles which are connected with an independent legal meaning, such that, if some of those principles are not used, the rest will become null and void. Rather, by that is meant that the philosophy which is aimed at over and above those principles cannot be fully realized without Islam being applied, as a whole, and not divided, even if it is necessary in reality to obey each principle, regardless of whether one obeys or disobeys another principle.

In the book there are divisions of some aspects of the Islamic economics which were obviously not intended in a legal text. Rather, they have been taken from all the legal principles to do with the matter. Therefore, those divisions precisely follow the ex-tent to which those legal principles are in conformity with them.

In the book terms arise which can be misunderstood. Therefore, we have explained their meaning in accordance with our

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1. *"Ijtihãd"*, the formulation of an independent judgement in a legal or theological question (Islamic Law).
2. *"Mujtahid", a* legist, formulating independent decision in legal or theological matters.

understanding of them, in order to avoid any ambiguity. For example, the term "State Ownership", according to our understanding of it, means: all property belongs to the Divine Office in the State. This is the property of the State and whomever occupies the office personally or as a deputy, to deal with it in accordance with what Islam has stipulated.

* * * * *

This book does not deal with the external form of the Islamic economics alone and is not concerned with being a literary model, with numerous `bulky' words and meaningless generalizations. Rather, it is an initial attempt — whatever its success and elements of creativity — to delve into the depths of economic thought in Islam and to succeed as a model of thought, on which a lofty structure for the Islamic. economics could be based; a structure which is rich in its philosophy and fundamental ideas, clear in its character, particularities and general tendencies, clearly defined as to its relationship with and its stance in respect to the other great economic doctrines, and linked with the complete organic structure of Islam . . .

This, it is necessary for the book to be studied as a primitive seed of .pat imposing Islamic structure. The book was required to philosophize on the Islamic economics by looking at economic life and the history of mankind and to explain the economic content of this economy.

I have no happiness except by God's leave. I trusted in Him and to Him I turn in repentance.

Muḥammad Bãqir aṣ-Ṣadr
an-Najaf al-Ashraf
IRAQ

Volume One

Part One

CHAPTER ONE

M A R X I S M

THE THEORY OF HISTORICAL MATERIALISM

I - INTRODUCTION

II - THE THEORY IN THE LIGHT OF PHILOSOPHICAL BASIS

III - WHAT IS THE THEORY IN GENERAL

IV - THE THEORY WITH ITS DETAILS

1- INTRODUCTION

When we undertake the examination of Marxism in the sphere of economics, it will not be possible for us to take a part of its doctrinal aspects, exemplified by socialism and Marxist communism, from its scientific aspect exemplified by historical materialism whereby Marxism claims it has determined the general scientific laws, governing the human history and has discovered in these laws the inevitable system for every stage of history in the life of man and its transformed conditions with the passage of time.

The firm bond of co-relation between the doctrine of Marxism and historical materialism will be brought more and more to view in the course of our future discussions and in the light of it, it will be seen in all its lucidity and precision that the doctrinal Marxism is nothing but a definite historical stage, a relatively limited expression of the absolute material conception of history. Hence it will not be possible for us to pass judgement in respect of Marxist doctrine qua a doctrine with its particular

tendencies and features except after we have exhaustively examined the ideological basis on which it is reared up, and have determined our stand point in respect of historical materialism qua the direct principle of the doctrine and the well ordered edifice of the laws of economics and history which, according to the assumption of Marxism dictates to the society the doctrine of its economic life in correspondence with its historical stage and its particular material conditions.

Historical materialism, provided it acquits itself of its scientific examination and is successful therein, will be the highest resort in determining the economic doctrine and the Social system for every historical stage in the life of man and it will become necessary that every economic and social doctrine, be studied within the framework of its laws and in their light, as it would be that credence be refused to be given to any economic and social doctrine which claims for itself exhaustively comprehensive sufficiency and feasibility for several different epochs of history like Islam which believes in the possibility of its maintaining the society and its economic and social relations on the basis of its system, irrespective of the what so ever of the changes that have taken place in its civil and material conditions within the fourteen centuries. It is on account of this that Engels, states — on the basis of historical materialism explicitly.

> The conditions under which men produce and exchange vary from country to country and within each country again from generation to generation. Political economy, therefore, cannot be the same for all countries and for all historical epochs. (Engels, *Anti-Dũhring,* [Arabic transl.] , vol.2, p.5)

But if it fails to discharge its assumed scientific function and in the analysis, it is proved that it does not explain the inexorable eternal laws of human societies, then at that time it will be natural to spurn out of door doctrinal Marxism which is established upon it, and then, there at, it will be scientifically

possible to adopt the very system, not like Islam which the laws of historical materialism do not determine and to claim, nay rather assume (postulate) for it that universality and that feasibility of comprehensiveness which is incompatible with the Marxist logic of history.

We, therefore, find it necessary for every inquirer into the doctrine of economics, to subject to exhaustive examination of historical materialism in order to justify his standpoint in respect of that doctrine and to enable him to pass an over all basic judgement for or against Marxist doctrine of economics.

On this basis, we shall begin our inquiry about Marxism, with historical materialism, then we will take up (the subject of) the doctrine of Marxism, which rests upon it; or in other words we will study firstly, the Marxist theory of economics and the Marxist theory of history; and secondly, the Marxist doctrine of economics.

SINGLE FACTOR THEORIES

Historical materialism is a special methodology of the interpretation of history. In its interpretation it tends to single factor. This trend in historical materialism is not the only one of its kind for there is a large number of writers and thinkers who are inclined to the interpretation of history in terms of single factor inasmuch as they regard one factor out of the many operating effectively in realm of history as the magic key which unbolts locked up secrets and plays the chief role in the operations of history. They interpret the other influences as secondary and following the chief factor in their existence, developments, transformation and continuities.

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One of the species of this trend, which consolidates the

motive force of history in a single factor is the opinion which holds race to be the highest source in the social field. It asserts that all the human civilizations and social cultures differ in pro-portion to the stored up wealth of the forces of drive and movement and the powers of creation and invention, inherent in the race and emerging therefrom, for it is the strong pure unmixed race which is the cause of all the phenomena of life in the human history and substratum of man's muscular and spiritual composition; and that history is nothing but a connected series of sequences of the phenomena of face to face fight between races and blood engaged in by the struggle of existence for survival, wherein victory is written for strong and pure blood while the weak nations die by the cutting sword of it, dwindling and becoming extinct because of being deprived of the powers which they could have had by virtue of their race, and because of the deficiency of their capacity for resistance which springs from purity of blood.

One of the interpretations of history in terms of a single factor is the geographical conception of history which regards geographical and physical factor as the basis of the history of nations and communities and that the history of people differ according to the difference between the geographical and physical environment which surrounds them since for it is that which at times opens up the way to higher culture, supplies then with abundant means of civilized life and causes ideas of causuraction to spring up in their brain and that which at other times, shuts the door in their face and assigns to them the hindermost part in the procession of human cavalcade. Hence it is the geographical factor which shapes societies according to its nature and requirements.

* * * * *

And there is a third interpretation of history in terms of a single factor held by the psychologists. They say that it is sex instinct which underlies all the different human activities which go towards the making of history and society since man's life is nothing but a series of the conscious and unconscious drives and impulse of that instinct.

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And the last of these endeavours which are inclined to the interpretation of history in terms of a single factor, is the historical materialism which Karl Marx heralds, asserting therein that the economic factor is the chief factor and the first guide to the origin and development of society and the creative force of all of its ideal and material contents and the various other factors are nothing but the superstructures is the social edifice of history, for they adjust themselves to this main factor and change in accordance with its driving force under which proceed the cavalcade of history and society.

These endeavours do not agree with reality nor does Islam acknowledge them for every one of them tries to contain in one factor the interpretation of the entire human life and to give to this factor that place in the epochs of history and merits of society which is not warranted on exhaustively minute consideration.

The main object of this discourse of ours is the study of historical materialism, not these single factor theories. We have mentioned them all here because they all share in common the expression of the trend of thought as to the interpretation of the social man in terms of a single factor

THE ECONOMIC FACTOR OR HISTORICAL MATERIALISM

Now let us set down the general idea of the Marxist concep-

tion of history which adopts the economic factor as the one which really causes the human procession to move in all the fields, for Marxism believes that it is the economic formation which determines the social formation, political religious and ideological and such other manifestations of social existence. As for the economic formation, too, there is Cause as there is for all the earthly things and that the main cause of the social change collectively and subsequently for all the historical movements in the life of man — is the mode of productive forces and the means of production.

It is the means of production which is the mighty force which makes the history of people, causes their development and organizes them: In this way Marxism puts its hand at the top end of the thread, and reaches with its ascending chain to the first cause as to the historical process in its entirety.

Here two questions crop up: What are these means of production and how has the historical movement and the whole of social life, originated from it?

To the first question Marxism replies: The means of production are the tools which man employs for the production of his material needs, for this man is obliged to wage war with nature for his existence and this war calls for a strong physique and definite kind of tools which man employs for husbanding nature and for rendering it fruitful for his good. The first tool which he employed in his service in this field was his hand and arm. Then other tools slowly began to appear in his life. He made use of tools for the purpose of cutting, grinding and hammering and was able, after a long journey of history to fix a massive piece of stone on a handle and to fashion a hammer. Then the hand became of service for fashioning tools for production and not for direct production. The production became dependant upon separate tools and the tools began to grow and develop whenever man's mastery over nature increased. He then fashioned stone

– hoe axes, stone-spears and stone knives. He was then able to invent the bow and arrow and made use of them for hunting. In this manner the productive forces began to grow gradually, slowly during thousands of years till they reached the present stage of history wherein the steam, electricity and atoms have become the forces on which the modern productions depend. And these are the productive forces which manufacture for man his material needs and requirements.

And also to the second question Marxism replies: The productive forces beget the historical movement in accordance with the changes and in consistencies arising therein and explains this by saying that the productive forces go on growing and developing constantly as we have seen, and for every definite stage of the development of these productive forces and the means of production there is a particular made of production and the produces which depend upon simple stone-tools, differ from the produces which depend upon bows and arrows and such other weapons of hunting and the produces of the hunter differ from the produces of the keeper of the herd and tiller of the soil. In this way, there is, for every stage of human society a particular mode of production in keeping with the kind of the productive forces and the degree of their growth and development.

Men do not act singly and in isolation from each other when in war with nature for the production of their material needs but do so in groups and in their capacity as members of a group knit together and their production will be the social production, whatsoever the conditions be, then it is but natural that there may emerge people between whom definite relations are formed in their capacity as a collected group together by joint ties in their productive operations.

These relations, the relations of production which are formed between people by reason of their united plunge into the fight against nature, are in fact, the ownership relations which deter-

mine the economic formation and the method of distribution of the wealth produced collectively; or in other words, they deter-mine the forms of ownership, tribal, slave feudal or capitalist or communist, and the kind of the owner as well as the status of every individual in respect of the social products.

These relations, are deemed, from the Marxist point of view, to form the true basis on which stands the entire social superstructure and all the relations, political, legal, and ideological and religious manifestations rest upon the foundation of the relations of production (relations of ownership) inasmuch as it is these relations of production which determine the form of owner-ship prevailing in the society and agreeably to the style and in which it completes the distribution of the wealth among its individual members and this in turn, determines its political legal, ideological and religious form in a general way.

But if all the social formations grow in conformity with its economic formation or in other words, grow in conformity with their relations of production (relations of ownership)· then it becomes necessary to ask the question in respect of these relations of production, how they grow and what is that cause which brings them into existence and gives shape to its socio-economic formation.

Historical materialism replies to this: Relations of production (relations of ownership) come into existence necessarily in conformity with the mode of production and to the specified determinate degree in which the productive forces exist for every degree of the growth of these productive forces, there are relations of productions and (socio) economic formation conforming to that degree of their growth. Hence it is productive forces which brings into existence the (socio) economic formation which it requires and imposes upon society. Then it is from the (socio) economic formation and the relationship of ownership that all social formations are begotten which conform to and agree

with them.

And the social existence continues in this state till such as the social productive forces reach that new degree of growth and development when they come in conflict with the existing (socio) economic formation for this formation which was the result of the new stage or degree as far as the productive forces had developed it to a new stage, demands a new (socio) economic formation and new relation of ownership in place of the last fashion, after the former economic formation becomes a feller on its growth and thus a conflict arises between productive forces for the means of production at the new stage on the one side and the relations of ownership and (socio) economic formation which are left by the previous stage of the productive forces, on the other.

Here comes the role of classism of the historical materialism, for the conflict between the growing productive forces and the existing relations of ownership always in the social sphere is the conflict between two classes, one of which belongs to the social class, the interests of which correspond with the interests of growing productive forces and the other class the interests of which correspond with the existing relations of ownership and which comes into class with rising requirements of the growth of productive force. For example, at the present historical stage, conflict is set up in society between the growth of productive forces and the relations of ownership and war has broken out in consequence of it between the working-class which ranges itself up on the side of the productive forces in their growth and refuses with persistence and class-consciousness the relations of capitalist ownership and the owner-class which takes up its position by the side of the capitalist relations in property and on shooting boots in the defense of it.

Thus the conflict between forces of production and the relations of ownership, always finds it social significance in class

conflict.

Then inherent in the nature of society there are two inconsistencies: The first, the conflict between the growing of the forces of production and the prevailing relations of ownership. When they become fetters to completion of their development and the second, the class conflict between the social class which engages itself in the fight on account of the productive forces and the social class which plunges in it on account of the existing relations; and this second conflict is the social expression and the direct reflection of the first conflict.

Since the means of production are the main forces in the realm of history, it is natural that it should emerge victorious in its fight with the relations of production and the remnants of the old stage (of history) and put an end to the economic formations which are in conflict with them and establish relations and economic formations which join in the procession of their growth and identify themselves with their stage.

And the meaning of it in social terms is that the social class which joins the rank of the productive forces in the fight is destined to gain victory over the social class which is in conflict with it and tries to preserve the status qua.

When the productive forces gain victory over the relations of ownership or in other words when the class which is the ally of the means of production over its opposite, these old relations of ownership are demolished and the face of the society is changed and changes in the economic formation in its turn shakes society's entire stupendous superstructure of politics, ideas, religions and moralities for all these wings stand on the basis of economic formation, so when the economic basis changes the entire face of society changes.

The matter does not end at this point for the conflict between the productive forces and the relations of ownership or the conflict between the two classes, the representative of these

forces and relations — this conflict, even if it finds its solution in the subsequent change of the entire social body, it is but a timely solution inasmuch as these productive forces go on attaining to their growth and development till they enter into conflict in second time, with the new relations of ownership and the new economic formations and suffers travel of labour of the birth of a new society the interests of which agree with the new growth of the productive forces and the new requirements of the society. Meanwhile, the class which was (hitherto) the ally of the productive forces becomes the enemy of it from the moment the means of production begin to conflict with its interests and some of the relations of ownership which it covets and the two classes get entangled in conflict afresh in a social indication of conflict between the productive forces and relations of ownership. And this duel ends with the very result to which the former had led it. That is the productive forces gain victory over the relations of ownership and consequently the class which is its ally triumphs and following this the economic formation and all the social formations change.

And thus the relations of ownership and the formations of economics continue to keep preserved their social existence as long as the productive forces keep operating under it and growing and when they become an obstacle in their path, conflicts begin to aggregate till a solution is found in the revolutionary burst up from which means of production emerge triumphant and the obstacle confronting it is demolished and a new economic formation is born and to the reoccurrence, after a period of its growth of a duel afresh in accordance with the dialectical laws till they are destroyed and history is moved on to a new stage.

HISTORICAL MATERIALISM AND THE CHARACTERISTIC OF FACTUALITY

Marxist have made it a practice of saying that historical

materialism which lined up with other sciences of human knowledge by a historical leap is the only scientific way for the apprehension of objective reality. In the same way some of the Marxist writers have tried to charge the opponents of historical materialism and the objectors to it as a method for the interpretation of social man with the accusation that they are the enemies of the science of history and of the objective reality which Marxism studies and explains. These people justify such an accusation of theirs on the basis of two things, one of which is belief in the existence of reality, the other is that historical events do not take place haphazardly or by chance but come into existence only in accordance with general laws which can be studied and be made understood. As such every objection to historical material-ism is reduced to its being an opposition to these two.

It is on the basis of this that some one of the Marxists writes:

> The enemies of history have made it a practice to interpret the differences in the apprehension of historical occurrences as a proof that there exists no sure knowledge as to an event having truly taken place. They assert that (when) we differ about events which took place a day before, how could we be sure about events which took place centuries before? *(Modern Culture;* [Arabic transl.] , no.1 1, year 7, p.10).

The writer wishes by this to explain every opposition to historical materialism as an attempt to skepticism as to history and historical occurrences being objective facts. The writer monopolizes in this way belief in the objective reality for his (school's) particular conception of history.

However, we for our assurance may ask whether this hostility to history means skepticism as to the existence of reality outside the (knowing) mind and its cognition or its denial?

The fact is, we find nothing new in these kind of (Marxist) pretexts in the field of history (for) we have come across these

kinds of pretexts in the field of philosophy (too), while we took up the study of philosophy in our work *Falsafatunã* (Our [Islamic] Philosophy). In that study of ours we found Marxists laying emphasis on the part that the materialist conception of the Universe is the only trend in the field of history for that trend takes for its basic belief in the objective reality of matter (so) the only answer to the philosophical question, when the inquiry is diverted from the material trend would be (belief in) idealism which does not believe in the objective reality and denies the existence of matter. As such there are only two alternatives to explain the world of being in idealist terms wherein there is no room for objective reality to exist independent of (knowing) mind and consciousness; or in terms of a scientific method on the basis of dialectical materialism. But as we have already stated this alternatively in philosophical discussion is spurious the object aimed at being to dub the opponents of political materialism as conceptual idealist in despite of the fact that the belief in this (objective) reality neither does it depend on (the acceptance of) dialectical materialism nor does its refusal mean, under any circumstance skepticism in respect of this reality or its denial ...

The same may be said in respect of our new field (history) that belief in the objective reality of the society and of the historical events does not result from acceptance of the material conception of history for there exists a true knowledge of historical events and that these events, whether relating to the present or the past, have actually taken place, in the definite form in which they are found or related and exist independent of the (knowing) mind or consciousness. As to this every one agrees. It is not a distinctive features of historical materialism, but every one who explains the events of history or its changes, whether in terms of ideas or in terms of natural, racial or any other factors believes in this, in just the same way as does Marxism which explains history in term of change in the productive

forces. Thus belief in the objective reality is the starting point for all these conceptions of history and the first axiomatic basis on which all these historical explanations are built up.

* * * * *

And another thing: Historical phenomena being part of the totality of the phenomena of nature are subject to the general laws which govern the entire Universe. The law of causation is one of these laws. According to this law no event be it historical, physical or of any other nature, comes into existence fortuitously or spontaneously (or the spur of the moment) but follows from a cause. Even effect is tied to its cause, every event is connected with its antecedent. So any talk of history which does not admit of the application of this principle the law of causation, in its field would be without meaning.

Belief in the objective reality of historical events and the conviction that these events follow in their occurrence the law of causation are the basic notions of all the scientific inquiry in respect of the interpretation of history and the controversy between different interpretations and trends in the study of history revolve round the basic causes and as to whether these are productive forces, or ideas or strains of blood, physical environments or all of these factors collectively. And the answer to the question would exclude none of these — whatever be their trend from being interpretations of history based on the belief in the (objective) reality of historical events and these events following from and in accordance with the law of causation.

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In the following pages we will take up the study of historical materialism as a general method for the understanding and the

interpretation of history and study.

First: Marxism's general conception of nature in the light of the philosophy and logic under which it is formulated.

Secondly: The nature of the General Theory which attempts to comprise within its the entire Human History.

Thirdly: The details of the theory which determines the different phases of human history and the social leap at the beginning of every such phase.

II- THE THEORY IN THE LIGHT OF PHILOSOPHICAL BASES

In the light of the philosophy of materialism Marxist believes that the distinctive feature of the new philosophy of materialism is its material interpretation of history, since it is not possible to give without it a correct interpretation of history agreeing completely with the philosophy of materialism and coinciding with the material conception of life and being in all its bearings. And as long as the material interpretation is true — in the opinion of Marxism — in the case of existence in general, it would be true in the case of history (also) since history is only a part of the general existence.

Marxism condemns the stand point of the 18th Century materialism in respect of the interpretation of history in that mechanical 18th Century materialism did not reconcile with this most powerful material discovery in the field of history, but was idealist in respect of its conception in despite of its being wedded to materialism in the general universal sphere. And why was it idealist in respect of its interpretation of history? It was such in the opinion of Marxism, because it believed in idealism and spiritual contents of humanity and assigned to it chief role in the (processes of) history and was not able, within the social relations in which it was living, to go beyond these idealist factors to the deepest source — to the material forces underlying the means of production. So for this reason, it did not arrive at the material

cause of history, nor was helped to success in forming a scientific care of historical materialism in conformity with the universal materialism. It only continued clinging to the superficial idealist interpretations which study only the surface of history and do not penetrates to its depth. Engels says:

> And for us that in the realm of history old materialism becomes untrue to itself because it takes the ideal driving forces which operate there as ultimate causes, instead of investigating what is behind them, what are the driving forces of these driving forces. The inconsistency does not lie in the fact that ideal driving forces are recognized, but in the investigation not being carried further back behind these into their motive causes *(Socialist Interpretation of History,* [Arabic transl.] , p. 57) .

I do not intend within the scope of my present study to take up investigation of philosophy of materialism for I have dealt with it in my first book of this series *(Falsafatunã)* I only want here to inquire into the correlation which Marxism or some of the Marxist writers assume to exist between the philosophy of materialism and historical materialism by posing as a thesis, the following question. Is it necessary for us, on the basis of the philosophy of materialism, to interpret history in the same way as Marxism has done and build up its entire course of speedy journey from the dusky dawn of life to eternity in terms of the means of production?

The answer to this question according to us is, that we should differentiate clearly between the philosophical conception of materialism and its historical conception according to Marxism. Since it is the mixing up of the two conceptions with each other that has led to the above mentioned emphasis: On the correlation between them and on this that no philosophy of materialism which does not adopt Marxist conception of history can stand on its legs in the field of historical investigation or can completely

free itself from its idealist conception of history.

However, the fact is that materialism in its philosophical conception means that matter with its manifold manifestations is the only one reality which includes all the phenomena of nature and all varieties of existences within it and spiritualities and everything which comes within its bounds, such as ideas, senses, abstractions are only material products and precede of matter from the particular stages of its growth and development. Hence thought, howsoever high and elevated it be above matter appears in the glasses of the philosophy of materialism to be only the outcome of the functional activities of the brain. As such there exists no reality or its various facets outsides the bounds of matter and matter requires no meaning, non-material so on the basis of this philosophical conception man's ideas and his spiritual contents and nature which exercises them are only different facets of matter, its developments and its activities.

This is the philosophy of materialism and its general outlook as regards man and nature and according to this philosophical outlook, it makes no difference whether men is taken to be the product of the material conditions and the productive forces or the conditions of production and its forces are the products of man, for as long as the man and his ideas, nature and its productive, forces are within the bounds of matter as assumed by philosophy of materialism, there is no harm, from the philosophical side, to begin the interpretation of history from either of the links of the chain of history (historical process) and take it as the first link in the social chain and just as it will be quite proper to begin with the means of production, and confer upon it the complete quality of the demiurge of history, and take it to be the highest cause of all the streams and currents of history. So in the same manner, it is feasible, from the point of view of the philosophy of materialism to begin with humanity as the starting point, for the interpretation of history, for to do so either way is one or the same thing according to the philosophy

of materialism.

From this it is evident that material trend in history, does not render Marxist conception of history inevitable, nor makes incumbent the reduction of man to the secondary rank in the ladder of history and estimation of him as a flaccid dough for the means of production to mould in whatever shape they choose.

It becomes, then necessary that the subject of history be studied independently of the subject of the philosophy of nature.

IN THE LIGHT OF THE LAW OF DIALECTIC

Laws of dialectics are the laws which interpret every development and becoming in terms of conflict between the opposites in the internal contents of things for everything carries within it an opposite germ which is engaged in strife with its opposite and develops in conformity with the conditions of the strife. *

Marxism turns its attention to the application in its particular conception of these laws of the dialect, in the social field and to the employment of dialectic method for the analysis of historical phenomena. It takes the class-contradiction in the core of society to be the expression of the dialectic law contradiction which says: everything contains in the depth of it, its opposites and contradictions and looks at the social development as a dynamic motion emerging in conformity with the general dialectical laws which says everything develops not by mechanical motion and by external forces which drives it from behind but because of the contradictions which rise and spring forth in the heart of it (society) increase gradually by the heaping up of class- contradictions till the suitable time draws near to burst out by transforming along with it the (entire) structure and the system of the society in accordance with the dialectic law which says: that the gradual quantitative changes are transformed into timely quantitative

* See *Falsafatunã* (Arabic), pp.174-242

changes. In this way Marxism endeavoured to devise a richly green field in the sphere of history by way of its historical materialism for the general laws of dialectics..

Let us pause for a moment to ascertain what is the extent to which Marxism has achieved success in its historical dialectics. Marxism was able to put dialectal method in place of its historical analysis to a certain extent, but the results it arrived at were contrary to the nature of dialectic afar by this it was dialectical but was not so in its ultimate signification and in its positive results as we shall see.

A– Dialectical Method:

Marxism did not keep confined the application of its dialectical method to the historical investigation, but took it up as a mark of distinction in its analytic investigations of all sides of nature and life (as mentioned in *Falsafatunã)* except that it was not carried out in a conclusive manner on account of its vacillating between dialectical contradictions and the law of causation; for in its dialectical capacity it affirmed that growth and development arise from internal contradictions and that the internal contradiction is quite sufficient for explaining each and every phenomenon of nature without the need of any other force or external cause while from another side it acknowledges the relations of cause and effect and explains these or those phenomena by external causes and not by contradictions stored up in their depth. This vacillation is reflected in its historical analysis too, for, while it insists upon the existence of contradictions rooted in the heart of each and every social phenomena as sufficient for its rise and movement, from another side it acknowledges that the huge social edifice in its entirety and in its particular manner, stand upon one foundation and it is the forces of production and the political, economic and ideal forms, etc. are only the super-structures of this edifice and the reflections in another shape of

the mode of production on which it is reared up. Then in that case the relation which exists between this structure of variegated colours and the mode of production is one of the cause and effect. This means that the super-structural social phenomena did not emerge by the dialectical method, in accordance with their internal contradiction but came into existence by causes external to their internal contents and by the efficacy of its foundation. Nay, we find more than this thing. The contradiction which in the opinion of Marxism, causes society to evolve is not class-contradiction which expresses one of the meanings of term, internal social contradiction, but it is only the contradiction between old ownership relations and the new productive forces here. There are, then, two independent things between which there arises contradiction, not one thing which carries contradiction within its care.

Apprehending this see-saw position of it, Marxism tried to bring about adjustment between these two matters by giving cause and effect dialectal sense and rejecting its mechanical sense and thus permitted itself to employ in its analytical processes the method of cause and effect in its particular dialectic frame. Marxist rejects that conception of causation in which the cause moves in a straight line, and in which it remains an external causal factor in relation to its effect, and the effect, negative in relation to its cause because such a conception of cause clashes with the conception of dialectics as well as with that of nature's process of self growth and self development, inasmuch as according to it effect cannot be conceived to come out richer and more augmented then its cause for this further richness and augmentation will remain unaccounted for therein — will have no cause for it. But such will not be the case with the cause which is concerned to have been engendered by its opposite. Such a cause will develop and multiply by its internal movement in accordance with what-ever of the opposite it consists of, to return to its opposite which engendered

it interact upon it, and realize itself by combining with it and forming a new synthesis, more self sufficient and richer than its cause and effect taken separately. This is what Marxism means by cause and effect, because it is in conformity with the dialectics and represents the dialectical, triad thesis, anti-thesis and synthesis.* In this triad, cause stands for the thesis effect for anti-thesis and their combination with each other the synthesis. The causation here is the process of growth and development by way of the birth of effect from its cause, that is the anti-thesis from thesis, and here the effect is not begotten negatively but is begotten augmented by internal conflict which gives birth to it and held in embrace by its cause it is made more developed and more complete in its synthesis.

Marxism employed the relation of cause and effect in this dialectic sense of it in the field of history. In a general way it did not depart from the dialectical method which it had adopted. It only interpreted society on the basis of it being a fundamental method on which the manifestations of society's superstructures rise from this foundation grow, interact with the foundation and produce by mutual interaction stages of social development in accordance with the story of thesis, anti-thesis and synthesis (position, negation and negation of negation).

This description applies to Marxism if we take as exceptions some circumstances in which Marxism registers the failure of its dialectic method in the interpretation of historical events and is compelled to give mechanical interpretation of the development of society and historical events in those circumstances, though of course without admitting the failure. Here is what Engels writes:

> The old primitive communities which have already been mentioned could remain in existence for thousand of years- as in India and among the slaves up to the present day - before intercourse with the outside world gave rise in their

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* See *Falsafatunã (Arabic),* pp.176-7

> midst the inequalities of property as a result of which they began to break up. *(Anti-Diihring [* Arabic transl.] , vol.2, p.8)

B·- Spuriousness of Historical Dialectic :

It is necessary that we indicate in connection with this topic our opinion on the dialectical method and on the causuality in the dialectical sense. Here it is. This causuality established on the basis of contradiction (thesis, anti-thesis and synthesis) does not rest upon science, nor upon analytical philosophy. Neither is there found a single experiment in the scientific field by the proof of which it is established like wise philosophical investigation rejects it in tote. We do not want to dilate on the study of this point as we have already done so elaborately in our general criticism of the dialectic (see our work *Falsafatunã).* But since we are in the field of history we may take some pains to present a sample of dialectical materialism. So as to make quite clear its inadequacy in the sphere of history as we have made quite clear its inadequacy in the sphere of philosophy (in our work *Falsafatunã).* Let us take a passage out of the work of Marx the leader of the historical dialectic. In this passage he has tried to make dialectical explanation of the evolution of the society towards capitalism and thereafter towards socialism. He writes about the labourer's private ownership of his means of production, saying:

> The capitalist mode of appropriation; the result of the capitalist mode of production produces capitalist private property. This is the first negation of the individual private property as founded on the labour of the proprietor. But capitalist production begets with the inexorability of a law of Nature its own negation. This does not establish private property of the producer but gives him individual property based on the acquisition of the capitalist era. i.e. on co-operation and the possession in common of the land and of the means of production. *(The Capital* [Arabic transl.],

vol.3, section ii, p.138)

Did you see how the effect grows, till it combined with its cause into a richer and fatter more self-sufficient synthesis. The labourer or the small artisan's ownership of his means of production is the thesis and the cause, the capitalist expropriation of these means of production and his ownership of them from him, that is the anti-thesis and the effect, where the effect growing and blossoming, forms by combining with its cause upto a more complete synthesis for the capitalist ownership suffers the birth pangs and gives birth to socialist ownership, wherein the artisan is returned (as) the owner of his means of production in a more complete form.

By a good luck, it is not enough to postulate the man as the thesis, anti-thesis and synthesis for the historical and natural occurrences, in order to fashion history and nature dialectically; for the dialectic which Marx has postulated did not go beyond being some kind of abstract dialect in the mind of Marx (a figment of his brow) and was not historical dialect for if it was, then where is that artisan's private property of the means of his production which is the cause of his capitalist appropriation of it, so that it may be said the opposite was begotten by its opposite and that the thesis gave birth to anti-thesis.

The private property of the artisan of the means of his production was not the cause which brought into existence the capitalist mode of production. The capitalist mode of production came into existence as a result of the transformation of the class of traders into capitalist producers and the accumulation of their wealth under definite conditions. The artisan's ownership of their means of production in a helter and scattered manner was an obstacle in the path of the those traders, who came to be employing the capitalist mode of production and to be growing avaricious to have added control over the means of production. Wielding more influence they were able to sweep away the

obstacle from their path and seize from the hands of the artisans their means of production in a final and decisive manner to consolidate the elements of the capitalist mode of productions and extend its range and scope. Though it was the capitalist mode of production, yet it did not arise from the artisan's ownership of the means of production in the same way as the anti-thesis arises from the thesis. It arose from the circumstances of the class of traders and the accumulation of wealth with them to a degree which made them employ the capitalist mode of production and subsequently to gain control over the properties of the class of artisans or in one sentence, if the external factors like trade and commerce, exploitation of the colonies, discovery of mines - if these did not confer upon the merchants and traders fat property, and means and power to adopt the capitalist mode of production and subsequently stripping the artisans of their means (of production) to the last shred – if all these conditions did not create for them these possibilities, the capitalist mode of production would not have emerged into existence, nor would have the artisan's ownership have been able to create its opposite to bring into existence the capitalist mode of production and subsequently itself evolve socialist ownership.

Thus we do not find in the sphere of history, as we shall see shortly on our study of the historical materialism in its details and its stages just as we did not find in the sphere of nature, a single instance to which the laws of dialectics or causuality in the dialectical sense are applicable.

C– Result Contradicts the Method.

What a cruel irony for Marxism as to what it had hoped for in respect of dialectical method, that it used this method in a manner, which led to results which were not dialectical. It was on account of this we said in the very beginning that Marxism's method of the analysis of history is dialectical but the content (meaning)

of the method is contradictory to its method, for while from one side it lays down that the class-contradiction which reflects the contradictions of the means of production and the ownership – relations is the only one main cause of the internal conflicts in the society and all the other contradictions merely arise from it, yet at the same time it lays down that the caravan of humanity is travelling inevitably on the road to effacement of the class from society for ever and that will be when the bells of victory will ring for the proletariat and the classless society is born and humanity enters into the stage of socialism and communism.

When the class and its contradiction would have disappeared from the society, then at that stage the tide of evolutionary process would have come to an end, the flame of eternal dynamic movement would have been extinguished and the miracle which would put out of commission the laws of dialectic would have occurred or else how would Marxism explain dialectical movement in classless society, as long as the class-contradiction has met its inevitable end and as long as the dialectical movement cannot arise except on the basis of contradiction?

We are still holding in our hand the ex-passage quoted shortly before, from the works of Marx in which he makes the private property of the artisan the thesis and considers capitalism the first negation (anti-thesis) and the socialism as the negation of the negation (synthesis). So we can ask Marx will then the matter of thesis, anti-thesis, and synthesis cease to operate after that in spite of general laws of dialectics or it will recommence a new triad? And if it re-continues then in that case, social property will become the thesis and which will be the contradiction which it will beget and will develop and increase by combining with it in unity? We can (in that case) postulate that the communist property is the contradiction or the first negation of socialism but which is the negation of the negation (synthesis).

Indeed the dialectic will remain in a state of perplexity, in front of the emphasis from Marxism that communism is the supreme phase of the human revolution.

IN THE LIGHT OF HISTORICAL MATERIALISM

Let us now study historical materialism in a new light — in the light of historical materialism itself. It might appear strange at a first sight of it that the theory should be made the means of pressing judgement upon itself, except that we shall find it from what follows that the historical materialism above will be sufficient for passing judgement upon itself in the field of scientific inquiry.

When historical materialism is a philosophy of the formation and development of the society, it will treat the subject of human ideas and human knowledge in general as a part of the formation of human society and give its opinion regarding the condition of the formulation of the human knowledge and its development just in the same way as it will give its opinion in respect of the condition of development and evolution of political religious and such other formations . . . And when the (socio-) economic formation, according to the views of historical (materialism) is the basic reality for all the sides of society then it is but natural that it should explain ideas and knowledge on the basis of it. On this account we find the historical materialism stressing that human knowledge is not born only of the functional activity of the brain but only conceals its original source, in the economic formation. Hence man's thought is a rational reflection of the economic formation and the social relation which exists therein and it is augmented and develops in accordance with the development of those formations and relations.

It is on the basis of this that Marxism has built up its theory of knowledge and professes the doctrine of evolutionary relativity. If the theory of knowledge, as long as it is constrained

to be born of the socio-economic circumstances it would be of relative value, confined within the bounds of those circumstances, and developing in accordance with them and as such there exists no absolute reality but realities are disclosed in relative shape within the orbit of the social relations and to the extent these relations permit.

This is the conclusion to which Marxism has arrived at by its analysis of societies, and this was conclusion which it could not but arrive at in keeping with its method of understanding of the society and history.

Though Marxism arrived at this conclusion yet in spite of it, it refused to apply this conclusion to its theory of history itself, declared historical materialism as an absolute truth, and made its inexorable laws as eternal laws, which admit of neither change nor modification nor do they suffer from any thing of impairment or lack of strength during the entire long course of history of the humanity. So much so that the Marxist understanding of history is the ultimate point of the entire human knowledge. Marxism, however, did not put itself to the trouble of asking the question, whence did arise this Marxist understanding of history? Or to have subjected it to its general theory of knowledge — (yes,) if it had put itself to the trouble of doing a little of this, incumbent upon it would have been forced to say that historical materialism as a definite theory arose within the socio-economic relations, and that it too like all other theories, follows from the objective circumstance in which it existed.

It is in this way that we find how historical materialism can pass judgement upon itself from the side from which it considers all every theory as a reflexion limited to the objective reality in which it exists and that it also in its turn does not exceed from being a theory which crystallized in the human mind in a definite socio-economic milieu in which it existed, so it is necessary that it should be a reflexion limited to that milieu and should develop in accordance with it. As such it cannot be an eternal truth of history.

Though we do not believe that the socio-economic relations are the only cause or source of the birth of theories and ideas, yet we do not deny their influence on the formation of many of the ideas and theories. We take for this, the material conception of history. I mean Marx's revolutionary conception of history. Marx behind the confrontation of the capitalist society or any other society (for that matter) will not come to an end except by revolutionary contest, between the two basic classes, to the bourgeois-class and the proletariat class. And from this it was led to regard revolution as the most general laws which governs the entire human history. After this come Marxistans and instead of trying to uncover the social circumstances which flashed to the mind of Marx, the sudden idea of the positiveness of revolution and its historical necessity, they believed that revolution is the eternal law of history while it was not such in fact but an idea which came suddenly to the mind of Marx in which he lived and leaped to the times of absolution laws of history.

Marx lived contemporaneously with the 18th century capitalism, that capitalism distinguished by its characteristic politico-economical milieu. It appeared to him joining in a fierce revolution was the nearest to occur and the clearest of necessity for the comforts of life and rank misery, poverty and plenty were on the continuous increase without let or hindrance under the shelter of absolute capitalism and the political circumstance were oppressive and unjust to a great extent. It was this which caused to open up the mind of Marx to the idea of class-struggle, which was growing more grim and difficult as also augmenting in contradiction from day to day till the volcano would burst and solves the contradiction by revolution. This led Marx to the belief in revolution. Marx died and the social formations in Western Europe changed and politico-economic conditions in Western Europe began to move in the direction opposite to that which Marx had decreed for it. The contradiction did not become

serious nor did misery grew in extent or become wider but began to contract and to become less relatively. It was proved by political experiments that it was possible for the miserable mass to realise gainful importance by engaging in political fight without eruption of the bloody volcano.

The Marxist socialist began to take to different trends, one of which was democratic revisionist trend and the other was revolutionary trend. The first trend was the general trend which socialism took to in some of the countries in the region of Western Europe. It appeared to the socialist of these countries in the light of the social and political advancements they had made that revolution had become unnecessary. As for the second trend, it had gained control over the socialism in Eastern Europe, which had not witnessed the ideal and politico-economic circumstances resembling the circumstances prevalent in Western Europe. And there arose a conflict between the two trends round the interpretation of Marxism, on account of this trend or that trend and it was destined for the revolutionary trend to succeed, at last whereupon the revolutionary socialists hailed it and regarded it as a decisive proof and argument that revolutionary trend is that which embodies in it Marxism in all its absoluteness and eternity.

What all these people missed as Marx had missed before him, that they were not in front of an absolute eternal truth, but were before an idea revealed to Marx by the circumstances of his situation and the ideal and political atmosphere in which he lived. He put upon it scientific glass and enunciated it as an absolute law which admits of neither any particularization nor and exception.

There is no stronger testimony of this than that which is furnished by the contradiction of Marxist socialism in the trends which it displayed after the death of Marx, as we have pointed out shortly before, the East taking the revolutionary stamp, and the West the democratic revisionist stamp. This contradiction

expresses, in fact, a difference in the understanding of Marxism, to that extent which it expresses the limitation of the Marxist conception to a particular social situation, from this it may be concluded that revolutionary Marxism could not be one of the absolute historical realities but that it was discovered by Marx at a certain moment of time and that it is an interpretation of the milieu in which Marx lived and when that milieu underwent change in Western Europe, and revealed new things, the idea became meaningless notwithstanding its preservation in Eastern Europe with all its values, wherein these things had not occurred.

We do not mean to say by this that we believe that every (social) theory must necessarily arise from socio-political formations, our aim is (only) to lay down that:

Firstly: There are some ideas and theories which influence the objective circumstances of society and appear as if they are absolute truth while they are no such things but are only truths relative to those particular circumstances, some of Marx's conceptions of history are of this nature.

Secondly: All the conceptions —which come under the rule of historical materialism and correspond with Marxist theory of knowledge are necessarily relative truths subordinate to the socio-economic relations which exist therein, and follow them haphazardly in their evolution and development, and it will not be possible to take historical materialism in its shape as an absolute truth in respect of history as long as the theories are construed to have been the result of the relatively developing circumstances as Marxism itself has affirmed.

III-WHAT IS THE THEORY IN GENERAL

After having studied historical materialism in the light of the Marxist fundamental method of philosophical materialism, dialectics and the historical materialism itself or in other words, in the light of the methodology of historical materialism in respect of the interpretation of knowledge, and have specified its stand-point in respect of that method, after we have studied all this, the time has come to move on the second stage of our study of the historical materialism; and that is, that we may take up the study as to what that theory is in general which comprehends in terms of its interpretation the life of man and his social history in its entirety. We will study it here in this general nature of it irrespective of its details and without regard to characteristic features of each and every one of its phases.

When we take up the study of it in this form we will find in the presence of the inquiry a number of questions awaiting answer.

Firstly: What is the nature of the argument which may possibly be advanced to establish the idea which is basic to historical materialism, that it is the objective reality of the forces of production which is the chief force of history and the basic factor in the life of man?

Secondly: Does there exist a higher criterion by which to test and weigh scientific theories and what is the stand of that criterion in respect of the Marxist theory of history?

Thirdly: Has historical materialism been able to bring

under its hypohetrical interpretation of all the far and obscure, corners of the human history or have there been some parts which have remained outside its bounds?

Our inquiry will turn round the answers to these questions till when we have finished with that we will move on to the third stage of our study of historical materialism — the study of its details, and its subsequent stages.

FIRST: WHAT IS THE NATURE OF THE ARGUMENT ACCORDING TO THE HISTORICAL MATERIALISM?

To make possible for us the acquaintance of the knowledge of the styles of argument employed by Marxism to prove its conception of historical materialism, it is necessary to study comprehensively a bulky collection of books and ideas in respect of historical materialism inasmuch as these styles of argument are presented disconnectedly and distributedly in the totality of the Marxist books.

However it is possible for us to sum up the substance of the arguments on which historical materialism relies in three things:

a) Philosophical argument.
b) Psychological argument.
c) Scientific argument.

A- The Philosophical Argument:

As for the philosophical argument- and we mean by it the argument which relies upon philosophical analysis of the problem and not upon experiments and observation derived from different epochs of history - it is this that the historical occurrences being subject to the law of causality compels us to ask as to the cause of the historical changes by which the successive historical occurrences, the different social ideological and political currents

could be explained. A casual glance at history will reveal to us that modern Europe, the present day European society differs in its social contents and its various kinds of appearances from the European societies as they were before ten centuries. It is necessary that there should be a cause for the occurrence of this general social difference and that we should explain every change in the social existence in terms, of its original source which works this existence and the change in it in the same way as the physicist studies in the field of physics, in the light of its sources and explains it in terms of its cause inasmuch as all the spheres of the cosmos, physical and human are subject to the law of causation. Well, then what is the cause of all those changes which make their appearance on the stage of history?

The answer made to this question would be that it is the ideology or opinion which holds sway, over the European society of the present day, and it differs from the European society of old days, in point of difference of social ideas and opinions ruling over each one of these societies.

But is it possible to stop before this explanation of history and society?

However, if we take a step forward in our analysis of history we will find ourselves compelled to ask as to whether our ideas and opinions are subject to mere chance? Naturally, the reply to this question in the light of the law of causation would be in the negative. For the ideas and opinions are subject to chance, nor, are they born with men and die when they die but they are only acquired by men and they occur and change and are subject to particular causes as to their coming into existence and their development. Therefore, they cannot then, be considered as the ultimate cause of the historical and social occurrences as long as they are in their turn contingent subject to specified laws, and it rather becomes necessary that we should search for the factors which are in bringing into existence the ideas and opinions

and causing their development. For example, why was it that the belief in the political liberty made its appearance in the present new age, while it did not exist in the Europe of middle ages, and that how was it that the views which clash with the view of private property have become so wide-spread at the present stage of history instead of the previous stage of history?

Here we should explain or rather it becomes necessary for us that we should explain, the birth of ideas and their development in terms of the social formations in a general way or in terms of some one of these formations like the economic formation, in a particular way. But that would not mean that we have any advancement in the solution of the philosophical problem, for by that we have done nothing more than explaining that the ideas and opinions have been formulated and developed in following the formulation and development of the social forms and thus we have come at the end to the very point from which we had set out – ended with the social formation whence from the beginning we had desired to start and discover the cause (of the change). Now if the opinions and ideas are born of the social formations, then what are those causes by which the social formations have come into existence? Or put in other words, the question is: What is the root cause of society and history?

Under this circumstance, we have before us only two ways of discovering the causes of social forms and giving of explanation how they came about.

The first way: We retrace a step backward and repeat the previous opinion, the opinion which believes in explaining the social formation with its different political and economic sub-structures etc. in terms of ideas and opinions; in that case we would be going round a vicious circle for we had said at first that ideas and opinions are born of the social formations, and now when we have returned and said that these social formation are

the result of the ideas and opinions and thus we have described vicious circle, and returned to whence we had started.

And it is this way which the idealists have followed in their interpretation of history. Plekhanov says:

> Hegel found himself having fallen in the very same vicious circle, in which the (French) sociologists and French historians had fallen for they had explained social forms by the existing state of ideas, and the existing state of ideas by the social forms ... and the problem will continue to remain unsolved, till the science extricates it from the circularity of this vicious circle `B' to be the cause of `A' while at the same time specifying `A' as the cause of `B' *(The Philosophy of History,* (Arabic transl.) p.44)

And the other way –the Marxist way– It is this: To proceed in our inquiry in accordance with the law of causation to arrive at the explanation and the assignment of the cause and go beyond man's ideas and opinions, and the social relations in their various shapes and forms, go beyond them because all of them are of social phenomena, they come into existence at a certain period of time and develop, so they are in need of explanation and of the assignment of the cause of their occurrence. At this decisive moment in the sequel of our inquiry, there remains no course left open to us but to make a search for the secret of history outside the belt of all these phenomena and only the means of production are outside the belt of it, or in other words the physical nature with which man has been struggling with since the oldest of ages. It is these forces of production which alone can give answer to the question on the subject which we have been working upon as to for what reason and how historical events take place, and evolve in accordance with the philosophical necessity which holds that nothing occurs by chance and that for every occurrence there is a cause (Law of causality).

Thus it is not possible for the interpretation of history to

save itself from the vicious circle in the field of inquiry except if it places its hand on the means of production as the chief cause.

' This is what is called philosophical argument and it was our keen desire to present it in the best possible manner. (In this connection) we consider the book entitled *The Philosophy of History,* by Plekhanov, the great Marxian writer as the most important book inasmuch as it is directed, in all its discussions, to the reliance upon this sort of argumentation and the observations given above by us represent the gist of all his discussion.

Now that we have grasped fully well the philosophical argument for the theory, it becomes necessary to analyse it and to study it within the limits of philosophical necessity which holds that no events originate by chance (the law of causality).

Is this philosophical argument a sound argument? Is it true to say that the only explanation by which the philosophical problem of history is solved is the explanation given in terms of the means of production?

In order to pave the way for the answer to the question we take up one point, connected with the means of production which Marxism says is the true cause of history and this point is that the means are not inert static but in their turn they too change and develop with the passage of time in the same way as ideas and views of man as well as the forms of his society change with the passage of time. Hence one means of production dies and another means of production is born. So we may rightly ask about deeper cause which brings about the development of the means of production and keeps itself out of view behind the long course of its history just as we asked about the factors and causes which go towards making of ideas or the social forms.

And when we go to the Plekhanov, the man with the philosophical argument and others of his ilk from among the great Marxians, we do not expect them to admit the existence of a deeper cause of history behind the means of production for

that would contradict the basic ideology of historical materialism which holds that the means of production are the highest resort in the realm of history. It is for this reason that when they give reply to our question, try to explain the history of the productive forces, and their evolution, in terms of the productive forces themselves, saying that the productive forces are forces which change themselves, and the entire society changes following in its wake. But how is this accomplished and which is the road which the forces of production pursue to bring about change in them-selves? The Marxist answer to this question is also ready for it explains it in this way. The productive forces, in the course of man's grappling with nature give birth and steadily augment in the mind of man reflective ideas and knowledge [1] for the reflective ideas and scientific knowledge result from experience gained and experiment made by man during the course of his grappling with the forces of

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1. Thoughts are divided in two classes, one of which consists of reflective or positive and we mean by it the information of man about nature in which he lives and whatever the kind of existence which adorn it and whatever of the laws under which it is run, such as our knowledge about the spherical nature of the earth or the domestication of the animal or the mode of transforming heat to motion and matter to energy or the know-ledge that every event is subject to a cause and all other such notions and ideas, as revolve round the determination of the nature of the universe and the kind of laws which governing ideas and notions of man. Such as, what behoves man or it.

And the other class consists of man's practical ideas that is how should an individual or society behave, in the sphere of economical, political and personal matters like the views of the capitalist society as to the relations which should be set up between the labourer and the owner of the property and the views of the socialist society which rejects these views or the views of this society or that as to how should husband and wife behave towards each other? Or what political course a government should follow.

Reflective (positive) ideas are about what is or what actually exists; and practical ideas are as to what ought to be or not to be.

the Productive nature. and when man acquires these ideas and knowledge by way of his grappling with the productive forces of nature, these reflective ideas and scientific knowledge, become the forces with the help of which man is led to make invention of the means of production and the renovation of the forces of production and their continuous development.

This means the history of the development of productive forces is accomplished in correspondence with the reflective and scientific development and are fashioned by them and the reflective and scientific development in their turn are fashioned by these productive forces during the course of their experimentation. In this way, Marxism was able to assure the means of production, their chief position in the assure of history and to explain their development by way of added reflective ideas and increased scientific knowledge which are formed and fashioned by the productive forces, without admitting of any higher force instead of the means of production.

Engels has stressed the possibility of this kind of explanation, the explanation of the development of each one of the productive forces and the reflective ideas by the others, mentioning that dialectic does not hold out picture by the cause and effect as two opposite poles strongly opposed to each other as the non-dialecticians are accustomed to do, understanding them to be such and always hold that the cause is here and the effect is there. The dialecticians on the contrary take the cause and effect to be mutually interacting, that is, they both act and react upon each other.

This is the point which we have expounded for the analysis and criticism of the philosophical argument by way of introduction so that we may say, if doing such a thing is possible from philosophical side and that it is allowable for the interpretation to follow a circular course, as the Marxism has done in concerning the productive forces and their development, then why is not philosophically possible for us to do so in the same style,

concerning the explanation of social formation, and lay it down that the social formation is — in fact, represents the social experiment man had entered into during the course of his connections with other individuals, in the same way as he had entered into his experiment of nature, with productive forces, during the course of his productive operations and just as man's practical ideas increase and are perfected under the shelter of the experiment with nature and then after that in its turn influences the development of experiment and the invention of the new means of production, so in the same way the society's practical ideas may be augmented and develop under the shelter of social experiment and in its turn influence its development and its renovation.

The mind of the man of science about nature continues to grow during the course of his experiment with nature and the natural experiment and productive forces themselves are augmented on account of it. And in the same way the practical man's mind as to the social relation, continues to grow during the course of his social experience, and the prevalent social relations themselves develop by virtue of it.

On this basis there is nothing which prevents Marxism from explaining social formation by way of practical views and then after that explaining the changing the views and their development by way of social experience, as exemplified in the political and economical formations etc. ... inasmuch as this alternative explanation resembles completely the Marxist explanation in every way that is each historical phase of the force of production and that of the scientific mind resemble the other phase point by point.

And after these, stands the question why is it necessary that the productive forces should be taken into account in the interpretation of history and society and why is it necessary that we may not consider either of the alternative explanation of the

social formation and ideas as sufficient for the other?

The philosophical necessity and the conception of cause and effect on which Engels has laid stress permit us to give an explanation like this and if there exist reasons which prevent us from adopting it, it is the historical experiences and observations. We will deal with it when we shortly hereafter take up the discussion of the scientific argument.

B— The Psychological Argument:

The starting point for this argument is to seek by reasoning that the rise of thought in the life of mankind results from the phenomena and forms of a specific society and to deduce from this that in the social being, its historical existence precedes the existence of thought, is not possible to explain social phenomena in their first formation and composition by ideal factors such as thoughts of man as long as these thoughts did not appear in history except in the form of later occurrences of specific social phenomena in the life of mankind. After this then, there is only one scientific trend for the explanation of society and for the assignation of the cause of its birth, the materialist trend, which casts aside the ideal factors and explains society by material factors in terms of the means of production.

The main point in this argument, then, is to establish by proof that thoughts did not occur in the realm of humanity except as the product of a prior social phenomenon so that it may be deduced there from that society is prior to thought and comes into existence from material factor and not by ideas and views.

But how has Marxism treated this main point and by what proofs it has established its truth? This becomes evident from Marxist emphasis on the fact that thoughts are given birth to by language and language is nothing but a social phenomenon. Stalin

Says:

> It is said that ideas come to the mind of man before they expressed themselves in talk and that they are begotten without the media of language, that is without the frame work of language or in other words they are supply barn. But this is altogether a mistake. Whatever the thoughts be that come to the mind it is not possible for them to be begotten and to come into existence except on the basis of the media of language, that is, on the basis of linguistic words and sentences and there exist no thoughts devoid of words or free from the media of language or free from their natural material sheath which is language, for language is the direct reality of idea so it is not possible to talk of an idea without language for anyone except the idealist.[1]

Thus Stalin correlated words with thoughts hence it is not possible to talk of thought apart from the media of language.

After that came the great Marxist writer George Politzer, to establish by proof this assumed fact in the light of psychological discoveries or what is more proper in the light of the physiological basis of psychology which the notable scholar, Pavlov had laid down educed from a number of experiments made by him.

Politzer writes in the marginal note on the above quoted words of Stalin:

> This (first) principle of dialectical materialism has received a strikingly brilliant support from the natural sciences by virtue of the physiological experiments made by the great scientist Pavlov. He (Pavlov) discovered that the basic processes in the activity of the brain are those of the conditioned reflex

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1, Politzer. Georges: *Materialism and Idealism in Philosophy* (Arabic transl.) p.77. We wish to point out in this connection that this book is not the work of G. Politzer but of the two Marxist writers, G. Mess and Morris Kanfeg. But as they have given his name as the author of the book we too have done so.

which are formed in specific circumstances, and which are set up by sensations whether these be external or internal. In this way, Pavlov established that sensations play the role of directed signals in respect of every activity of a living organic being. On another side he discovered that it was possible for words with their contents and meanings to take place of the sensation which are evoked by things, which are indicative of them. In this way, words are made of signals, — that is a second system of the process of signalling formed on the basis of the first system and it is peculiar to man and is considered language which is a condition of man's higher activity, the foundation of his social activity and is the ground of his abstract thought which transcends the timely feeling, the basis of his intellectual insight for it is these which enable man to reflect reality to a greater degree of precision. It was in this way that Pavlov proved that what determines — basically — man's consciousness is not his physiological apparatus and his biological milieu but on the contrary it is rather in accordance with the reflexion of the society in which he lives that determines it. *(ibid.*, p.78)

Let us take something from this elucidatory attempt of Politzer in which he seeks to discuss Marxist view from Pavlov's investigations.

Politzer observes that according to the view of Pavlov, in respect of the basic processes of the brain that, all these are responses to definite stimuli or signals. These stimuli in their first phase are sensations. It is obvious that these responses which are evoked by sensations and signals cannot be pure ideas, ideas apart from the things for these do not occur except in the presence of sensations evoked by things, for they do not enable man to think about a thing which is absent from him. In the second phase comes the role of language and the verbal media in order to play the

role of the stimuli and secondary signals. They condition every word with a certain definite sensation from among the sensations. It becomes a conditional stimulus in the second phase and enables man to think by way of responses which the linguistic stimuli send out to his mind so it is, then, the language which is the basis of thought and since language is nothing but a social phenomenon, so the thought, according to this, is nothing but a secondary phenomenon of man's social life.

It is the thought which Politzer has offered.

We, however, in our turn may ask the question; Is it, in fact, language which is the basis of thought (for there exists no thought apart, free from the media of language) according to Stalin's interpretation? For the sake of clarity let us pose the question in the following manner. Is it language which created out of man a thinking being as a specific social phenomenon as Politzer avers? Or that the language arose in the life of the thoughts wanting means to express and present themselves to others. We cannot seize with the first hypothesis which Politzer has sought to lay emphasis upon, till the time we are made free from the discussion of the experiments of Pavlov and the principle which he has formulated about the natural and conditional stimuli.

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In order for us to make it more plain, it is necessary to give extended thought to the views of Pavlov and to his method of interpreting thought in physiological terms inasmuch as this notable scientist was able to indicate that when a specific thing is correlated with its natural stimulus it acquires the same active power which the natural stimulus possesses, begins to play the same role and evokes the same response which the natural stimulus evokes, for example, offering of food to a dog is the

natural stimulus. It evokes a definite response from the dog in that at the first sight of the vessel which contains food for him, saliva begins to flow from his mouth. Pavlov observed this, and he took to ringing the bell at the time food was offered to him. He repeated this several times, then he took to ringing bell with-out offering the food and found that the saliva of the dog used to flow (whenever the bell was rung) he deduced from this experiment that it was the ringing of the bell which had evoked the very response which the natural stimulus had evoked and had discharged its very role on account of its association with and being conditioned by it, at several times, so he applied to the ringing of the bell, the name conditional stimulus – and the name to watering of the mouth and the secretion of the saliva, which was evoked by the ringing of the bell, conditioned response.

It was on this basis that a party tried to explain every thought of man into physiological terms fully in the same way as the secretion of the saliva in the case of the dog, inasmuch as all the thoughts of man are responses to different kinds of stimuli. And just as the presentation of the food, the natural stimulus, evokes the natural response, which is the secretion of the saliva, so in the same way there exist in man natural stimulus which liberate specific responses, which we consider as some sense-perception and those stimuli which liberate these responses, are external as well as internal sensations and just as the ringing of the bell which causes that very response to occur which the presentation of the food evokes in the dog, by association with and being conditioned by it, so in the same way there are found many things associated with those natural stimuli in the case of man and become conditioned stimuli in place of them. All of the media of language, are some of them the word `water' liberates the very response which the sensation connected with water liberates on account of its being associated with and conditioned to it for the sensation connected with water or tangible water is

a natural stimulus and the word `water' is a conditioned stimulus and both of them evoke in the mind a characterist kind of response.

So on account of this Pavlov framed the hypothesis of two signalling systems: The first of these signal systems consists of all the natural stimuli and conditioned responses in which words have no place.

And the second of these signalling systems consists of words and the media of language as secondary conditioned stimuli, having been conditioned by the stimuli of the first signalling system and on account of it having acquired the power of effecting the definite responses.

And the result to which the views of Pavlov lead are these: that it is not possible for man to think without a stimulus inasmuch as thought is nothing but a kind of specific response to the stimuli. Likewise, it is not possible for man to have an abstract mental thought except when it comes into existence related to the conditioned stimuli acquired, by way of its being associated with sensations, the very responses which those sensations have liberated and that since he is dependent upon his sensations, he cannot have absolute thoughts, that is he cannot think about a thing which is intangible to his sense. Therefore, to make man a thinking being, it is necessary that there be existing for him stimuli behind the bound of sensation, behind the bound of natural stimuli.

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Let us take for granted that all this is correct, but does that mean that language is the basis for the existence of thought? Certainly not; for the conditioning of a specific thing to a natural stimulus in order that it becomes a conditioned stimulus, results sometimes in a natural way, just as when the sight of water

happens coincidently to be accompanied by certain definite sound or a specific mental state at several times or on several occasions, till it becomes for that sound or that mental state, a conditioned stimulus which evokes the very response which the sensation which water evokes. That conditioning in these circumstances as a natural conditioning. This conditioning another time takes place as a result of a definite design just as our way with a child. When we give something, say milk, and repeat its name, till a bond is formed between the thing and the word. It becomes a conditioned stimulus for the child as a result of the method we followed with him.

There is no doubt that several of the sounds and events are associated with natural stimulus in the course of the life of man and are conditioned, naturally by them. They come thereby to evoke the responses in the mind. As for the media of language in a general way its words, the conditioning of which was completed during the socializing process, these were conditioned as a result of man's need to express his thoughts and convey them to others, that is to say they came into the life of man because he was a thinking being wanting to give expression to his thoughts and not because language came in his life he became a thinking being, for, if such were the case why was it that language did not come into the life of other animal species? Language is not the basis of thought, it is only a specific mode of giving expression to thoughts adopted by man since remotest times, when he felt in the course of the struggle he was engaged along with other human individuals with nature that, the pressing need for expressing his thoughts to others and for understanding the thoughts of others as a means to facilitate the operations which they were carrying on and to determine their collective stand before nature and against the antagonistic forces.

It was only the man learnt to adopt this mode, the mode of language — itself to give expression to his thoughts during the

jointly collective work in the light of what was completed by nature or accidentally, as to the conditioning of some of the sounds with some of natural stimuli by way of their oft repeated association with them. Man however was able to avail of it in a wider scope and thus was able to bring it into his life.

Thus we know that language as a social phenomena, arose in the life of man only as a result of his feeling the need in the course of jointly collective work for the translation of his thoughts and for the declaration of it to others, and that it was not language which by coming into his life made him a thinking being.

On this basis, we are able to know why was it that language appeared in the life of man and did not appear in the life of other species of animals as hinted to by us earlier? Or rather we have come to know more than this to why was it that there existed associative life in human society while there did not exist such an associative life of any other living being? It was because man was able to think, reflect, so it was possible for him and for him only to transcend the limits of perception and to change the existing reality which he perceives, and subsequently to change and alter the perceptions themselves, in correspondence with the tangible reality. This was not possible for any other animal not possessing the power of thinking to do so, for it is not able to understand anything or think about anything except the tangible reality in their specific shapes, so it is not possible for it to alter existing reality to some other thing.

Thus it is thought which reserves for man with the power to change the tangible reality in a possible manner.

And since the changing operation of the existing reality demands on several occasions a numerous and various sort of endeavours so the effecting of it takes the collective stamp, a number of individuals having joined in it according to the nature of it and according to the extent of efforts required for effecting

it. Thus social relation was found to exist among them. It is not possible to find the existence of relations of this nature between individuals of other species of animals inasmuch as other animal species are not thinking beings, they are unable to carry on operations to bring about positive changes in the tangible reality so consequently there does not come into existence social relations of this nature.

From the time that man entered into joint actions, for bringing about change in the tangible reality, they felt the need of language for the signals of sense - perceptions, whilst they give expression to the tangible reality are unable to give expression to a thought to bring about its change or the specific relations which exist between the perceived things which man wants to change or to modify language comes to existence in the life of man to satisfy and fulfil this need of his. It came into only his life because animals did not feel a need like that of man, a need which was born of collective activity founded on the basis of the thinking power for the changing the tangible reality and for effecting positive modification therein.

C- The Scientific Argument:

The scientific explanation of the changing universe proceeds in a progressive line. It begins as a hypothetical explanation of reality which a scientist is treating and the sources and causes of which he is trying to discover. The hypothetical explanation attains to the scientific degree only when the scientific evidence is able to establish it as the only possible explanation of the phenomenon, the subject matter of the investigation and to deny the possibility of any other explanation save it. Any hypothetical explanation which is not established in this way cannot attain to the scientific degree of certainty or scientific reliability and there will be no justification for its acceptance save as one like other explanations. For example, we find a certain person habitually crossing

a certain street at a certain time of the day. We may advance the assumption, by way of explanation of this habitual behaviour of the person that he pursues this very road because of the fact that he is a daily worker in the factory which lies at the end of the street. This assumption will be a fit explanation of the occurrence but it will not mean that it is an acceptable explanation as long as it is possible for us to explain this behaviour of the person in another light, such as, we may assume that he is going directly that way to visit a friend who lives in a house in that street or is repeating his call on or a physician who has his clinic in that quarter to consult about the state of his health or is doing it with the intention of attending lectures regularly delivered at a certain academy.

Such is the case with Marxist explanation of history (historical materialism), we cannot take it to be an adequate explanation of history by obtaining scientific evidence which repudiates all other hypothesis, emerges from being a hypothesis and attains to the degree of becoming a scientific theory or to the degree of scientific certainty and reliability.

Let us take, by way of illustration, the explanation of historical materialism in respect of the state. It explains the phenomenon of thereliction state and its existence in the life of man on the basis of the economic factors and class-contradiction. In a class-contradictory society there rages a war between the strong class which owns the means of production and the weak class which owns nothing. The dominant class creates the political organ to defend its interest and to secure its leading position. That political organ is the state in its various historical shapes and forms.

This Marxist explanation of the state or government cannot acquire sure scientific value except whom it can render bankrupt all other explanations by which it is possible to demonstrate the rise of the state in human society otherwise than as a political organ of class exploitation. But if we are able to explain this

social phenomenon on other basis, and the scientific proof does not reject or repudiate that explanation, then in that case, the Marxist explanation cannot be deemed to be anything more than a hypothesis.

So Marxist's explanation will not be deemed a scientific explanation if, for example, it is possible for us to explain the rise of state on the basis of the complication of civilized life and demonstrate the establishment of the state in a number of human societies in this way. For example, social life would not have been possible in the ancient Egypt, without a great deal of complicated assertions and extensive general work undertaken to organize the system of canalising of the rivers, and the irrigation. The state in that society arose in order to facilitate social life and to supervise the complicated operations upon the well-doing of which the life of the common people depended. It is on account of this that we find the Egyptian tribe of Ecclerius, enjoying the highest position in the administration of the state affairs not on the basis of class interest but on the basis of the momentous role they played in the Egyptian agricultural system on account of their expert knowledge. Similarly we find the people of the church enjoying the highest position in the Roman administrative machinery at the time when the Germanic people entered the Roman Kingdom as invading barbarians, hordes after hordes. The church appeared as the prominent source of thought in the country upon the heel of the destruction caused to culture and learning by the Germanic raids, whence, the man from among the church people was the only one when knew the art of reading and writing and speaking the Latin language and the only one who understood keeping account of the months, and was able to look after managing in the difficult task of administering the affairs of the state whilst the German kings, and the leaders of the armed people spent their time in hunting boars, deers and camels ibese and in carrying on wars and raids of destruction. It was,

therefore, but natural for them to build great influence in the governing political apparatus of the State which gained them great spoils and profits — which made them according to Marxism a specific class of vested interest. Although their economic influence and their economic advantage came to them by way of their political existence in the administrative machinery of the government, they did not owe to this economic influence which they acquired after this, they owed it to their distinctive ideological and administrative ability.

Marxist explanation of the state will not be deemed scientific if it were possible to assume that religious creed has been influential in the forming of many of the states and political powers which are supported on the basis of religion, represented by societies not having common class interest but by societies bearing the religious stamp of common denominator.

In the same way, it is possible for us to assume that the creation of the state in human society was for the satisfaction of the political instinct deep rooted in the soul of man which possesses the power hidden therein inclining man to dominate and hold power over others and that the state was the inspired urge of it, its practical realization.

I do not want to explore all the possible assumptions as the basis for the explanation of the state ... my only object behind this is to say that the Marxist explanation of the state cannot be deemed a scientific theory, till it is able to repudiate all of these assumptions and to advance the argument from actual facts to prove their spuriousness.

We have given the Marxist explanation as to how the state came into existence, by way of a simple of all of its other conceptions and assumptions on the basis of which it explains the human society inasmuch as these assumptions to become good for acceptance as scientific theory, demand of Marxism to bring argument to prove the falsity of all the other assumption save its

own for it is not sufficient for its acceptance as a scientific theory that it is one of the possible assumptions which holds good for the application to end the explanation of the reality.

So let us see how is it possible for Marxism to present an argument of this nature in this connection? The first and the serious obstacle which confronts Marxism in its path in this connection is the nature of the subject matter of history. It is this, the subject matter of inquiry in the field of history (the origin and development of the society and the basic operative factors therein) differ in nature from the subject matters of scientific inquiry in the field of physical sciences, which for example he selects from his information based on scientific experiments.

The investigator of history and the physicist, if they meet at one point, it is in the matter of taking in hand all the phenomena in their totality — the phenomena of human society such as the state, ideas or property, or the physical phenomena such as, the heat, sound and light, — as matters or data of inquiry they try to arrange these — phenomena in an orderly manner as a material for investigation and for discovering their causes. But they differ from each other in regard of their scientific approach to these phenomena — the subject matter of their study. This difference arises from two sources. The historical investigator who proposes to explain human society its origin, its developments and its stages, is not able to investigate these phenomena directly, in the way a physicist is able to explain physical phenomena which he can test by special experiments. The historical investigator is compelled to resort to form an idea about them based on hearsay tales, reports of authorities and traces of various sociological creatures and such other relies — which are in themselves defective evidences. And this difference constitutes, indeed, a great difference between the physical phenomena as the main materials for investigation on which the scientific inquiry is based

and the historical phenomena as the primary material for investigation on which the historical inquiry is created. The physical phenomena which the physicist subjects to study are phenomena which occur during the life time of the physicist — are contemporaneous in time with him, present in the experiment. He is able to observe them himself and to subject them to the scientific light and so is able subsequently to expound them fully ... but quite contrary is the case with the material which an investigator of history handles for when he tries to discover the main factors which operate in the society and to find how they arose and developed, he is obliged to rely, in the formulation of the material of investigation, for the deduction and explanation upon many of the historical phenomena of the society, the personal observation of which is not possible for him and the knowledge of which he comes by through reports and narrations of authorities, hearsay from travellers, and the remains of historical relies. We may mention by way of example, in this connection that when Engels tried in his book the *Origin of Family* as a historical investigator to explain social phenomena scientifically, he was obliged to rely in general, for his deductions, upon the reports and assumptions of a certain historian or traveller and that historian was Morgan.

It is in this way that the historical inquiry differs from physical inquiry from the point of materials (phenomena) which the inquirer possesses, and upon which he bases, his explanation and his deductions. But the difference does not stop at this point, for just as those differ from the point of view of material, so also there exists another source of their difference in point of proof or argument which it is possible for an inquirer to employ in support of this i.e. this scientific explanation or that scientific explanation.

It is this when an investigator of history obtains the totality of the historical phenomena and historical occurrences, he does not possess before him the direction of those possibilities which

the investigator of the physical phenomena does, for example, the direction of possibilities which are before him in respect of the atom its nucleus, its electrical charges, its rays, for that reason the historical investigator is obliged to take perforce, the historical phenomena and historical occurrences just as they are, and it is not possible for him to change or vary anything there-from. As for the physicist he can subject to various experiments the material which he is handling, remove from it or add to it anything in any way he likes. He can do so even in spheres in which the subject studied does not permit any change or alteration in its material like the subject of astronomy, there too it is possible for the astronomer to vary his relation in respect of that material or his position or his direction by the help of a telescope.

The inability of the investigator of history from making experiments upon the historical and social phenomena, would mean his inability to advance empirical argument in respect of his theories by which he explains history and discloses its secrets.

The investigator of history is not able, when he tries, for example, to discover the basic factors of a particular historical phenomena, to make use of the scientific method which the empirical logic has laid down, and which the physicist makes use of, such as the two methods – the two main methods of empirical reasoning. These two methods agree in the addition of a certain factor, in its entirely or the removal of a certain factor in its entirely in order to see how far and to what extent it is correlated with some other factors. So as to establish scientifically that `b' in the cause of `a' they are combined together under various circumstances and this is what is called the method of agreement. Then `b' is separated from `a' to see if `a' disappears when `b' is separated from it and this is what is called the method of dis-agreement obviously the historical investigator has no power to do anything of this sort, he cannot change the historical reality of humanity.

Let us take, by way of an illustration of this, the state as a manifestation of the historical phenomena and heat as a manifestation of the physical phenomena when the physicist will seek scientific explanation of heat and to disclose its main source or cause, it will be possible for him, to assume that motion is the cause of it when he perceives them to be found together under various circumstances and conditions. He, then, will make use of the method of agreement in order to make sure of the soundness of his assumption. He will then institute a number of experiments in each one of which he will try to remove one of the things found together with heat and motion to make sure as to whether heat is found or not, without it and that the thing removed is not the cause of it. He will also make use of the method of disagreement by instituting an experiment in which he will separate heat from motion to make it explicit as to whether it is possible to find heat without motion. And if the experiment reveals that heat is found wherever motion is found whatever the other circumstances or occurrences be and it disappears under circumstances and conditions in which motion is absent .. . (and thus) establishes scientifically that motion is the cause of heat.

As for the investigator of history when he takes up in hand the state as a manifestation of the historical phenomenon, he may assume that it is the outcome of the economic interest of a certain section of the society but he will not be able to eliminate other assumptions experimentally, for it will not for instance, be possible for him to demonstrate experimentally that the state is not the outcome of political instinct inherent in the mind of man, or the outcome of a specific complexity in the civil or social life.

The utmost which historical investigator can do is to put his hand on a number of historical conditions under which the appearance of state will be found yoked with a specific economic

interest and to collect a number of instances in which the state and the economic interest are found together (and this is what is termed, in the empirical or scientific logic as the statistical method).

Obviously, this statistical method cannot scientifically demonstrate that the class of economic interest is the sole basic cause for the appearance of the state when it is valid to assume that other factors too may have special influence in the formulation of the state and whereas, a historical investigator is unable to bring about a change in a historical reality as a physicist is able to vary the physical phenomena by experiment, so he will not be able to remove all the other factors from the social reality to see the result of this removal to ascertain whether the state, as a manifestation of the social phenomena will or will not disappear with the removal of all these factors.

The sum and the substance of what has been said above is that the historical investigation differs in nature from the physical investigation from the material on the basis of which are set up the deductions in the first place and in the second place in point of evidence and arguments which go to strengthen and lend further support to those deductions.

On this basis we come to know that when Marxism formulated its particular conception of history it did not possess the support of scientific authority save this observation which it thought sufficient for its particular point of view in respect of history and it did more than this it assumed that this limited observation of the narrow field of history was quite sufficient for discovering all the laws of history in their entirety and for the certain conviction thereof. For Engels has said:

> But while in all the earlier periods the investigation of these driving causes of history was almost impossible — on account of the complicated and concealed inter-connections between them and their effects — on present period has so far

> simplifled these inter-connections that the riddle could be solved. Since the establishment of the large-scale industry, that is, at least since the European peace of 1915, it has no longer been a secret to any man in England that the whole political struggle there turned on the claims to supremacy of two classes: the landed aristocracy and the bourgeoisie (middle class). (Engels: *Ludwig Feuerbach,* p.95).

This means that the observation of the social formation at a particular interval in the life of Europe or of England was sufficient, in the opinion of the great Marxist, thinker, Engels to convince scientifically that the economic factor and the class-contradiction, is the main factor in the entire history of mankind in spite of the fact that the other intervals of history do not reveal this because these intervals are clouded in tangled complications, as Engel himself avers so; it is that a single field of observation from among the other fields of the history of 18th or 19th century was able to convince Marxism that the forces of economics were the driving forces of history during all these centuries, – they were convinced of this by nothing except that it appeared that it was this factor alone which was the ruling power in that particular observed field of history, the field of England at that limited interval of its history in despite of the fact that a particular factor ruling over a society at a particular interval of its history cannot be held to be sufficient for the argument as to its being the main factor ruling over all the epochs of history and for all the societies inasmuch as it may be that this ruling power itself may have its own particular causes and factors so to pass judgement in respect of history it is necessary to compare the society in which the economic factor appears to be the ruling factor with other societies, so as to ascertain if this domination has its own particular conditions and causes.

It behoves us in this connection to take into consideration another quotation from Engels given in another context apologizing for the fault he had fallen in for his boldness as to the

application of the dialecties to the non-social from the sphere of the nature and life, saying:

It goes without saying that my recapitulation of mathematics and the natural sciences, was undertaken in order to convince myself also in detail — of what in general, I was not in doubt — that in nature of innumerable changes, the same dialectical laws of motion force their way through as which in history, apparent events of history. *(Anti-Dühring,* [Arabic transl.] ,vol.2, p.I93)

If we compare this quotation with his previous quotation, we will be able to come to know, how it was possible for a Marxist thinker like Engels to formulate his general conception vis-à-vis history and subsequently his philosophical conception vis-à-vis nature and life as well as all of their manifestations in the light of a particular single historical field of observation of a particular human society chosen from other societies at a limited interval of time in a facile manner. And as long as this particular field of observation reveals the fight between two classes, it is inevitable that history be all a fight between contradictions and that if it was contradiction which rules over history. This fact was sufficient to convince Engels that these very laws of this contradiction according to his version, force their way through nature and that nature is all a fight between various internal contradictions.

SECOND: DOES THERE EXIST A HIGHER CRITERION?

According to Marxism the extent of the success of a theory in the field of practices is the highest Criterion for testing its soundness for in the opinion of the Marxist it is not possible to separate theory from practice and this is what is termed in dialectics unity of theory and practice. Mao Tse Tung writes:

The theory of knowledge of dialectical materialism puts

practice in the first place. It holds that for man's acquisition of knowledge it is necessary that it is not cut off from practice in the slightest degree, and assails contendingly any erroneous theory which denies the importance of practice or allows the separation of knowledge from practice. (About practice, p.4)

George Pulitzer writes:

Then it is important that we should grasp the meaning of the unity of theory and practice, and the meaning is this: He who neglects theory falls victim to the philosophy of pragmatism and walks like one blind and gropes in darkness. As for that man who neglects practice, he falls into the pit of religious inertness. *(Materialism and Idealism in Philosophy* [Arabic transl.] , p.114)

It is on the basis of this that we propose to study historical materialism or in other words, general Marxist theory of history, in order to know the lot of its success in the field of the revolutionary practice Marxists have engaged themselves in.

It is obvious that for Marxists it was possible to try the application of the theory to practice, only to that particular part of the theory which relates to the development of the capitalist society into socialist society. As for the other parts of the theory, they are connected with the laws of the historical societies that came into existence in the life of man and have passed away. Marxism was neither contemporaneous with them nor he had any share in bringing them into existence.

Let us, therefore, take that particular portion of the theory which relates to the development of the capitalist society and the birth of the socialist society, and which is the Marxist attempt at correspondence of theory to practice, in order to ascertain nd clarify the extent of the unity of theory and practice or their contradiction and subsequently to give our judgement in respect of the theory in accordance with the extent of its success or

failure, inasmuch as the correspondence of the theory with practice is, according to Marxism, the basic standard for the establishment of theories and the essential element of a sound theory.

In this connection we find it possible for us to divide the socialist countries which effected the practice of Marxist theory wholly or partially, into two groups (contrary to) practice in either of these countries came far removed from the theory, as well as the scientific predictions and whatever of the laws it has determined as to the course of history and the social currents.

The first of these two groups consist of co-socialist countries in which the socialist order was imposed upon by red military force like the countries in the eastern zone of Europe such as Bolonia, Czechoslovakia and Magyar. In these countries and their likes, transformation to socialism was neither effected as one of the which the necessities of the rule which the theory has determined nor did the revolution emanate from the inner social contradictions but was imposed upon from outside and from above through foreign war and armed military invasion. If that were not so then which of the laws of history it was which cut Germany into two halves, and annexed its eastern part into the socialist world and its other part into the capitalist world? Was it the law of the forces of production or was it the authority of the victorious army which imposed its system and its ideology upon the territory which it had brought under its rule?

As for the second of these two groups of socialist countries, in these countries socialistic orders have been established by internal revolutions. But these internal revolutions were not the embodiment of the Marxist laws nor did they occur in conformity with the theory by which Marxists have solved all the riddles of history. Russia, and it is the first country in the world in which socialist regime became dominant by the action of internal revolution — was one of the industrially backward countries of Europe and the productive forces therein had not reached that stage which the theory

determines for the change to and the sprawl of socialist revolution. It was not the increase of the productive forces, which played the major role in determining the shape of the order and the formation of the essence of the society in accordance with the theory, but played a reverse role. Whereas productive forces in countries like France, Britain and Germany had grown up tremendously and these countries had entered the highest stage of industrialization. Yet with that degree of their advancement in this field they were far from the revolution, and they were delivered from the bursting of an inevitable communist revolution according to the conceptions of historical materialism.

As for Russia, industrialization movement therein was very low. The local capitalist were quite unable to solve the problem of quick industrialization under the prevailing political and social conditions, and there was place for comparison between the industrial capitalism of those backward countries and the industrial forces as well as the massive industrial capital of the countries of western Europe. Yet it was in these countries that the revolutionary trends took root and burst up with a sudden spring, and the industrial revolution came as a result of the political revolution. Hence it was the revolutionary apparatus of the state, which was the powerful instrument in the industrialization of the country and the development of the country's productive forces. It was not the industrialization and the development of the countries productive forces which were the cause of the creation of that apparatus and bringing into existence of those instruments.

Now if it is necessary that we establish a nexus between the revolution from one side and the industrialization and productive forces from the other side then it is quite reasonable that we reverse the Marxist assumption as to the relation between the revolution and the industrialization and consider that the lowness of industrial and productive level are some

assumption of the important factors which lead to the ringing of bells of revolution like Russia in a way quite contrary to the Marxist that the socialist revolution, according to the laws of historical material-ism, cannot take place except as a result of the growth of industrial capitalism, and its reaching the apex. Russia, for example, was impelled to revolution by the growth of the forces of production as to the extent it was driven by the fear on account of the lowness of those productive forces and its industrial backwardness to remain in the rearguard of the procession of the countries which had made fascinating advancement by striding leaps in the field of industry and (industrial) productiveness, so there was no alternative for Russia to make secure her real position in the family of the world's community of nations but to create that political and social apparatus which would enable her to solve quickly her problem of industrialization and by it to push ahead in the preparation of the race for industrialization and in the field of formidable competition between states and that without creating the apparatus which was capable of solving these problems Russia would fall a victim to the monopolization which the competing states had started and her existence as an independent state would come to end.

Thus, if we looked at Russia from the angle of the productive forces, as Marxists always do and its industrial state, we shall find the main problem which it was faced with was the problem of the bringing into existence of industrialization and not the contradiction arising from growth of industrialization with the political and economic entities of the society.

The socialist revolution secured the government, and was able, by the nature of its political entity (found on absolute and limitless authority) and by the nature of its economic entity (founded on the concentration of all productive activities and operation in one hand, (that is, the state) to move on with mighty strides to the industrialization of the country. Hence it

was the socialist regime which created the reasons of its existence and Marxist justifications of its creation and there grew up the class which claims that it represents it and has transformed the productive forces in the country to a stage which Marx considers as defact socialism.

After this we may rightfully ask as to whether there would have been set up a government bearing the political and economic imprint of socialism, were it not that Russia lagged industrially, politically, ideologically behind as to the level of the great industrial countries?

And China, and this is another country wherein the socialist rule became dominant by way of revolution. Here too we find, as we did in the case of Russia obvious conflict between theory and practice. Here, too, neither the industrial revolution has been the main factor in the formulation of the new China and the change of its system of government, nor the means of production, or the surplus value, and the contradictions of capital, as laid down by the laws of historical materialism have played in whatsoever way the chief part in the political battle field.

And the last thing it behoves us to take into consideration is the fact that the internal revolutions which practically effected the introducing of Marxist socialism, did not depend for their victory upon class-struggle and the collapse of the ruling-class before the dominated one on account of the intensity of the class-conflict between them, to that extent to which they depended upon the military collapse of the ruling apparatus under severe war condition, like the collapse of the Tsarist rule in Russia militarily on account of the fighting conditions of the first world war - a fact which made political victory possible for the opposing forces - and on their head was the communist party - to achieve political victory, by way of revolution resulting in the rein of government coming into the possession of the communist party, the perfectly well-built organizationally and numerically and the strongest

unity from the point of ideological leadership. Similar was the case with the communist revolution in China. Though it began before Japan's invasion of China, it continued for full one decade disseminating and spreading to emerge finally victorious at the end of the war. Hence practice (correspondence of theory with practice) has not been able up to this day, to have confirmed the coming of victory by way of internal conflict, or to have demolished the governing machinery by war and external condition causing it to collapse down.

The features and the characteristic signs of the theory did not appear from the practice of it. All that appeared from its practice was this, a society in which revolution has taken place, has upturned its (social) order blown away violently its governing machinery after which the machinery had cracked down and split up by the war and by the external conditions and the urgency of the keen consciousness of the people's need for a new kind of political and social life.

The very factors which made revolution successful in Russia or caused it to be disposed towards were present, partially or wholly in several other countries, had been witness to the self-same war condition Russia was witnessing had turned up in the wake of the first world war similar revolutions in which, the crack of -governing machine, acute sense of their insufficiency, and the feeling of the increasing need for quick advancement, so as to joining up with the world procession going ahead, had played a momentous role, except that the only revolution which took up the socialist imprint was the Russian revolution. However it is not possible for us to find the reason of it in the difference of productive forces. These were similar to a certain extent in those countries. We find difference only in the ideological conditions which were passing over those countries and currents and cross-currents which were active in the political field and revolutionary sphere here and there.

Then if whatever the dialectic logic of Marxism assumes as to the unity of theory and practice and if practice is the sole basis of the support of the theory, then this too is equally true, that historical materialism even to this day has been missing the point that the practice (of socialism) which Marxism realised neither bears the characteristic marks of the theory nor reflects its features, so much so that even Lenin, – and he was the first Russian who was engaged in the struggle of realising the practice (striving to establish socialism) and was its leader – was not able to foretell the time of its occurrence, and that in the shape of the lolling out of the revolution till the revolution came just within sight and it is far no other reason than this that the social pointers and the social events. The guide marks of the society on the brink of the defacto socialist revolution cannot be at all applicable to the pointers and events on the basis of which the theory is determined. Lenin had delivered to a gathering of the Swiss Youth, a month before the February revolution and ten months before the October revolution, a speech in which he said:

> Perhaps we also belong to order generation of you may not live to see the fierce socialist revolution which is on the brink of pushing out its tongue. But it appears to me I can express with the highest of assurance of the hope that it will be possible for the worker-youths of Switzerland and other youths in all parts of the world engaged in the splendid socialist movement to have the good fortune not only of sharing in the fight during the impending proletariat revolution but also of emerging victorious from it.

Only after ten months, Lenin said this and socialist revolution was made possible and lolled out into move in Russia, bringing with, it, the rule while for the Swiss worker-youths engaged in the splendid socialist movement it has not yet been possible in his words to have the good fortune, he hoped for them

as to sharing in the proletariat revolution and emerging victorious from it.

THIRD: WAS MARXISM ABLE TO COMPREHEND HISTORY IN ITS ENTIRETY?

Marxism, as has been stated earlier, is a collection of assumption each one of which is specific to a particular stage of history and from the totality of these assumptions the general assumption of the interpretation of history is formed that the society is always begotten of (socio) economic formation determined and imposed upon it by the productive forces.

Truly, what is the most outstanding in Marxism and the greatest of its analytic powers and constitutes its line and attractiveness is this power of its all inclusiveness and comprehensiveness which makes it preferable to many other interpretations of the economic and social operations. It explains within its frame the determinate firm inter-connection between various of these operations in all the human fields; for Marxism is not of a limited ideology or a social, economic or political analysis only, but is an explanatory analysis which includes within it all the social, economic and political operations as they proceed for thousands of years in the long course of history.

It is but natural for such a theory as this to appropriate to itself the destiny of man and to inspire them with wonder so long as it pretends to man that it has placed in their hands every mystery of mankind and every enigma of history, and as long as it surpasses all other scientific theories on the point of social and economic theory by great weight to the great mass of people, which is that it has been able in raising the future prospective expectations of man by scientific analyses and to advance their false desires created on logical and materialist foundations to the proportion it was possible for Marx to carry them to. There are

no other scientific methods to overcome in the social and economic fields except by the help of their board of Experts.

And as we have already learnt, historical, materialism as a general assumption establishes that all the social formations and social phenomena spring from (socio) economic formation and the (socio) economic formation in its turn comes into existence as a result of formation of productive forces, for, the economic formation is the connecting link between the chief force of production and all other social forms and social phenomena just as Plekhanov says:

> It is the economic form of any people (whatsoever) which determines its social form and the social form of this society in its turn determines its religious and political form and so and so forth... But you will ask would not there be some causes for the economic form, also? Undoubtedly, like everything else in the world, it too has its own cause, ... it is the struggle with nature man is engaged in. (Plekhanov, *Materialist Conception of History* [Arabic transl.], p.46).
>
> Indeed the productive relations determine all the other relations which bring about concord between people in their social life. As for the productive relations, it is the form of productive force determines them. *(ibid.,* p.48)

So, it is the productive forces which create the economic form and the economic form follows in its development the development of the productive forces. The economic form is the basis of the edifice of the social structure and whatsoever of all its other forms and phenomena. This is the general stand point of historical materialism.

* * * * *

Two challenging questions are oft repeated in the pages of the books of the challengers of the Marxist ideas, calling in

question Marxist historicism as a general theory of history.

First: If the course of history is subject to the rule of the economic factor and the productive forces, in accordance with the laws of nature and is led by it from feudalism to capitalism and from capitalism to socialism, then why this expenditure of mighty efforts in the way of the massive agglomeration of as great a number as be possible, by the Marxists to kick up a partitioning revolution against capitalism and why they do not let the historical laws to operate and keep from such back-breaking undertaking?

Second: Every man has, necessarily an inner sense of the thing that he is moved by which are directed to ends having connection with an object of economic nature on the contrary, economic interests, even the whole life is, on occasions sacrificed in their path. So how it can be considered that economic factor is the motive force of history?

For the sake of objective scientific discussion we will register our opinion on these two most thorny questions with plainness and precision for both these questions express not so much the erroneousness of the Marxist conception of history itself.

As concerned with the first most question it is necessary for us to understand the Marxist view point vis-à-vis revolution. It is this. Marxism does not consider the exertions it expends in the path of revolution as something apart from the laws of history, it rather considers them a part of those laws which it is necessary to be brought on so as to move history from one stage to another stage. Hence when revolutionaries congregate in the path of revolution they only express the inevitability of history.

While we say this we are aware that Marxist itself has not been able at times to try to understand clearly the demands and the necessary requirements of its scientific conception of history, even Stalin has written:

Society is not helpless before the laws. It is in its power

through gaining knowledge of the economic laws and by reliance upon them to delimit the scope of their action and to utilize them in the service of society and to master them in the same way as it mastered the powers of nature and its laws. (Stalin: *The Role of Progressive Ideas in the Development of Society* [Arabic transl.], p.22).

Politzer also has said a similar thing. He writes:

Dialectical materialism along with its emphasis on the objective nature of the social laws has at the same time laid emphasis on the object part ideas play – that is scientific intellectualize activities in retarding or accelerating, advancing to or hampering the influence of the social laws.(Politzer: *Idealist Materialism in Philosophy,* p.152)

Obviously this avowal of Marxism, man's power through his ideas and intellectual activities over the influence of social laws, and their acceleration or retardation, is not in agreement with its scientific thought vis-à-vis history for if history proceeds in correspondence with the general laws of nature, then the mind will be considered a part of the field over which these laws hold their sway and whatever these roles, these minds or activities would give start to, will be a positive expression of these laws and their inevitable influence not the acceleration or retardation of that influence. Hence when Marxist, for instance, take pains to create convulsions and seditious disorders in order to deepen and aggravate; they are executing and giving effect to these laws. The position of the parties of men working with political mind is not the same in respect of the laws of history as that of the physicist in respect of the laws which he tests in the laboratory. The physicist can accelerate or retard the influence of the physical laws which cause changes in the form of the physical thing he is testing, for the physical laws cannot have their way in his working upon them. He can control them and prepare them to meet the conditions

of his experiment. It is not so with the workers in the field of history. It is not possible for them to free themselves from the laws of history or to bring these laws under their control for they always are a component or a part of historical operations over which those laws hold complete sway.

So it is, then, a mistake that Marxism says anything about having control over the laws of society just as it is a mistake to go to the first contention which charges its practical activity as absurd and unjustifiable as long as we know that revolution is a component part of the laws of history.

Now let us take the second moot point: It cites — as usual a list of the drives the motive for which has no connection with anything of economic nature so as to say that the economic factor is the main factor. This moot question does not meet the point of dispute like the previous question inasmuch as Marxism does not mean that the economic drive is the only conscious driving force of all actions of man throughout the entire course of history, but leans upon this saying that it is a power which expresses itself in the minds of man in different forms and styles for the behaviour of man's mind proceeds from different objects and motivating ideologies which have no connection with economics whatsoever economic. However the fact is these are all of them superficial expressions of the deeply underlying force and are nothing but means which the economic factor makes use of and drives man towards inevitable historical directions.

We are here obliged to go beyond some of the same textual statements of Marxism which are not confined to this statement but lean towards laying stress on regarding economics as the general aim of all the social activities and not only driving forces from behind for Engels writes:

> . . . force is only the means and that the aim is economic advantage and "the more fundamental" the aim is then the means used to secure it the more fundamental in history is

> the economic side of the relationship than the political side ... in all the cases of domination and subjection to the present days. Subjugation has always been a stomach filling agency (taking stomach-filling in a very wide sense). *(Anti-Dühring,* vol.ii, p.27)

We have no doubt that Engels wrote this in haste and with little thought and went out racing Marxism itself in the exaggerating the economic factor and said something contradictory to the reality we every time come in contact with, for after we find this stomach filling taking stomach filling in a very wide sense in the words of Engels, not preventing these stomach-fillers from setting up momentous activities in the social field for the taking of realizing their ideal or for the satisfaction of their physical desires.

However, let us leave this and take up the study of the real problems which affect historical materialism and stand in its path, problems the solution of which it has not been possible for Marxism to light upon inasmuch as it has not been able to explain in the light of historical materialism, a number of essential points in history, the elaborate study of which was invariably necessary.

1- THE DEVELOPMENT OF PRODUCTIVE FORCES AND MARXISM

The first question is about the productive forces with the change of which history changes. The question is how these productive forces develop and what are the factors which govern their growth and development and why not regard these forces as the supreme factors which govern history instead of those productive forces which are dependent upon them for their growth and development?

Marxists habitually reply that it is the thoughts which man

avail of during the course of their experiment with nature and which emanate from these experiments, that in their turn develop these productive forces and take part in their growth. Hence the sources from which the productive forces are developed emerge from them and are not independent of them or of a degree superior to them. The Marxists believe, that the progress in respect of the interchanging effect between the productive forces and the thoughts emerging during their exertion with nature, in dialectic shape expresses the dialectical movement of the development of the productive forces which as productive forces give birth to new ideas, and then return to increase and develop under them.

And this dialective developing characteristic of productive forces, founded on the basis of a special sense of experiment makes ideas and views as the basic unique, providence of man. Hence the relation between the forces of productive nature which man experiments and his ideas and views in respect of the worlds and its facts, becomes a relation of cause with its effect which emerges from it, then interacts with it and increases it in wealth and substance.

But we must not forget the result which we educed from our study of the theory of knowledge. These results prove that the natural experiments present to man only raw materials and surrounds him with nothing but the sensuous images of their content. These materials and sense-images remain meaningless unless they coincide with specific physiological and psychological condition in a definite mind and such a mind is that of man. Man over and above all animals who shares with him the sense-images and sense perception possess intellectual powers of deduction and analysis as well as a prior necessary knowledge. Man takes to apply it to the raw material and data which he has adduced by way of experiment and produces new things. As often as the productive activity is repeated, and its balance is

completed, they are augmented in richness and fruitfulness. So it is not the productive forces, which alone by themselves cut open the way to argument and develop them or give birth to factors which develop and enrich them. They only give birth to sensations and images so in such a case, then, their development is neither dialectical by itself nor does the positive force which develop them emanate from them. Thus the productive forces become subject to a factor which is higher in degree to them in the successive continuity of history.

Till now we have been asking about the productive forces and have arrived at a conclusion not relishing to the Marxists. Nevertheless, it is possible, nay, rather necessary that we go further and ask a more penetrating question and which will drive historical materialism in a tight corner. We will pose the question in the following manner. How was it that man made a practice of productive activity, and that it originated in his life while it did not originate in the life of any other living being?

We know from Marxist doctrine that it believes in production as the fundamental principle of society on the basis of which the social formation rises and it builds up all the other formations on the basis of the economic formation. But it did not take the trouble to inquire a little about the production itself to explain, how production was originated in the life of man. And if the production is held good for explaining the origin of society and its relations and phenomena, are not there conditions which will be held good for explaining the origin and existence of the production?

A reply to this question is possible if we knew what is production. Production, as Marxism has informed us, is the joint activity of a collection of man in their encounter against and struggle with nature for the production of their material needs and that all the relations and phenomena are founded on its basis. It is, then, in that case, an activity undertaken by a number of

men to change nature and make it in a shape which agrees with their needs and satisfies their wishes and wants.

An activity such as this undertaken by a number of men cannot come into existence historically unless it is preceded by certain definite conditions which can be summed up in two essential things.

The first of the two things is thought man cannot change nature for the purpose of satisfying his wants. He cannot make floor out of wheat or bread out of floor, unless he is in possession of the image which he will give to nature. The operation of changing cannot be separated from the thinking process from the womb of which the operation will give birth to the shape and form of nature which remain hidden in the initial stage. It was on account of this that it was not possible for the animals to carry on productive activity as positive activity of changing nature.

The second of the two things is language qua, the material manifestation of nature which enables the participants in the productive activity to understand each other and to adopt a united standpoint during the operative process, for unless every one engaged in the joint productive operation possesses the means of expressing and explaining his idea and of comprehending the thought and ideas of his other participants, (his comrades) in the work, he would be unable to produce.

Thus we clearly find that thought, in whatsoever degree it be must precede productive activity and that thought does not issue from productive activity as all the other social relations and social phenomena in the Marxist claim. It only arises from the need of the interchange of thoughts and ideas as the material manifestater of thought; so in that case, then language is not born and grows according to the claimed fundamental law in respect of the activity of production in despite of the fact that it is the most important social phenomena on the whole and that it is only a necessary condition historically in

the existence of this assumed fundamental principle.

The greatest argument in support of this we can produce is the fact that language grows and develops independently of the production and its forces, for, had language been begotten of the production, born according to the claimed fundamental law, then it surely would have developed and changed following the development of the forms of production and their change like all the other social phenomena and relations according to the opinion of Marxism and there is not found a single Marxist – not even Stalin, who dare say that the language of Russia, for instance, underwent change after the socialist revolution and took a new form, or the steam engine, which altered the basic principle of the society and produced a great change in the mode of production, brought with it a new language for the English people –a language different from the one they were speaking before the change took place. Then, it is that history asserts that language production in its continuity and development, is independent of production and it is independent because it was not begotten in this or that form by the form of production but has its source in the thoughts and needs which are deeper and more earlier than every practice of social production in whatever shape or form.

2- IDEOLOGY AND MARXISM

We can consider the relation which holds and on which Marxism lays great stress between the intellectual life of man and the economic formation as well as the formation of the productive force, which determine the entire content of the historical entity of man, as one of the points of the greatest essential weight and importance in the material conception of history according to Marxism, for ideology, whatever higher forms it may have taken, however far it may have gone away from the basic force, what-ever path it may have chosen from

among the complicated historical tendencies it would turn out an analysis from being nothing but in the outcome of the main economic factor in one or the other form. It is on this basis that Marxism explains by way of material condition the history of ideology and the revolts and changes stirred up by it.

This frame under which Marxism places all the intellectual thoughts and ideas of man more than all the other aspects of the Marxist structure of history, deserves philosophical and scientific inquiry on account of the weighty results to which it leads vis-à-vis, the theory of knowledge and the determination of its value and its logical criteria. Hence it was necessary to study this view during the course of our discussion of the theory of knowledge. We did do so in our work on philosophy entitled, *Falsafatunã,* but in a cursory manner. Now we find that we should subject it to detailed study and that we are going to do in the second edition of our above named work. However this will not prevent us from dealing with it within the orbit and limits of the present work.

However in order to elucidate the Marxist view with clarity we will concentrate our talk on the main phenomena of the intellectual life. They are: the religious, the philosophical and the scientific and social knowledge.

However, before taking up a detailed study of these topics, we would like to quote, a textual extract from Engels, in which he expresses the Marxist view which we are going to study. He states in a letter to Franz Mehring:

> Ideology is a process accomplished by the so-called thinker consciously, it is true but with a false consciousness. The real motive forces impelling him, remain unknown to him; other-wise it simply would not be an ideological process. Hence he imagines false or seeming motive forces... and does not further for a more remote source independent of thought *(Social Interpretation of History,* [Arabic transl.] , p.122).

Engels wishes by this to justify the ignorance of all the thinkers of the true sources which created their thoughts and their discovery was possible to none except historical material-ism. It does not mean their ignorance of the sources which historical materialism determines for the course of the human thinking, that it was a false source and that historical materialism was mistaken in its view. It was only necessary that the truth of these sources were disclosed before their eyes, otherwise there would not have been an ideological process.

We, however, may ask Engels truthfully, in our turn, if it really was necessary that the true driving forces of ideology remain hidden from those who entertain them being merely an ideological process, then how was it valid for Engel himself to smash this necessity and perform a miracle, by presenting to humanity a new ideology which remains to enjoy the capacity of being an ideology and yet at the same time it may be in the know of its true sources and true motives?

A– Religion :

Religion occupies a prominent position in the realm of thought. It was on account of the position which it held in this sphere that it has played active role in the making of human intellect or in giving it a concrete form assuming different shapes and manifesting itself in various forms with the passage of times, so in spite of the fact that Marxism had eliminated from its determination of religion all its objective facts, such as, divine revelation, prophecy, and the Creator, it was invariably necessary to fabricate a material explanation of it. It was commonly known and held in the materialist media that religion originated as a result and outcome of man's feeling of weakness before nature and its formidable forces, and of his ignorance of its mysteries and its laws. But this explanation was not agreeable to Marxism

for it deviated from its central basis, and does not correlate religion with the economic form having for its basis of production which was necessarily the sole exponent and the source of everything which was in need of explanation and the cause and source. Constantinov says:

> Marxist-Leninism always contested such distortation of historical materialism and established the necessity of searching before everything else, for the main-spring of all social, political, legal and religious ideas in the Economics *(The Role of Progressive Ideas in the Development of the Society*, [Arabic transl.] , p. 4) .

It was on account of this that Marxism took to searching for the original source of the birth and rise of religion within the economic formation of society and found it ultimately in the class-structure of society. For from the miserable reality in which the oppressed class lives in a class-society springs up the thoughts of religion in the mind of the miserable man. Marx says:

> Religious suffering, indeed, is the expression of the real suffering, as also the protest against this suffering at the same time. Religion is the sigh of the oppressed creature, the sentiment of the heartless world, as it is the spirit of the spiritless. It is the opium of the people, so the criticism of religion, then, is the first step towards the criticism of this valley sunk in tears *(Selected Essay's of Marx*, [Arabic transl.] , pp.16 — 17) .

Marxist research in this connection agrees on one point. It is this, religion is the product and outcome of the class-conflicts of society. But there is a disagreement as to the mode in which the religion arose from this class-conflict and at times, leans toward saying that, religion is opium which the ruling exploiter also gives to exploited class to drink in order to make it forget its demands and its political role, and submit to the existing evil reality. In this form it is the snare woven by the ruling class to

prey upon and to dupe the toilers and the unhappy.

While Marxism says this, it turns it eyes away from the blatant reality, which points in all the clarity to the fact that religion always grows in the lap of the miserable and poverty-stricken people and fills their souls with its rays before it floods with its light the entire society. Here it is this Christianity. It was none but these beggar apostles who carried its banner to the remote corners of the world and in general and to the Roman Empire in particular. They possessed nothing except the spiritual spark which burned in their soul. Similarly the first collection of the mass which nourished the call of Islam in its laps and which was the nucleus to absorb a still large number, was none other than needy people or the likes of needy people of Mecca so how can it be interpreted that religion was the production of the ruling class which it created to drug the downtrodden and for the protecting of its interest?

If therefore, it is permissible for Marxism to hold the belief, that it was the dominant ruling class which manufactured religion to safeguard its own interest, then we too have the right to ask and was it to the interest of this class, to make out of this religion a powerfully effective weapon the passing a decree against usury which brought huge profit to the Meccan society before it was made absolutely unlawful by Islam. Or make it to let go and renounce all its aristocratic alarms. For the fact that religion imposed by its preaching the equality of men, the human dignity rich nay, even the contempt of the rich and the capping criticism under pretensions of greatness, to such an extent that the Christ said. Any one of you who wants to become great make himself a servant and that "it was easy for a camel to pass through the eye of a needle than for a rich man to enter the kingdom of God."

We, at times, find Marxism expounds its class-interpretation of religion in another way. It claims that religion springs from the

depths of despondency and suffering which fails the souls of the down-trodden class; so it is the down-trodden who of themselves fabricate religion in which they find consolation and under its auspices, their hopes. Hence religion is the ideology of the unhappy and the down-trodden and not the fabrication of the rulers.

By a happy coincidence, we learn from the history of the primitive societies that religion is not on the ideological phenomena of the class-societies only, even the primitive societies, which Marxism thinks, existed live in the state of classless communistic societies practised an ideology of this kind and colour, religious life appeared in these societies in various forms and shapes so it is not possible to give a class explanation of history or to regard it as an intellectual expression of the reflexion of the conditions of down-troddnness which surrounds the exploited class. When it is found existing in the life of rational man before the class-structure came into existence, and before the valley was sunk under the tears of the oppressively exploited humanity. Then how would Marxism be able to make economic formation as the basis of the explanation of religion?

Then there is another thing. If religion be the ideology of the down-trodden and oppressed springing from the reality of their miserable state, as Marxism assumes in the second version of its explanation of it, then how would it be possible to explain the existence of the religious belief divorced from the real state of misery and the circumstance and conditions of economic oppression? And how would it be possible for the class not down-trodden, not oppressed to accept from the oppressed down-trodden class and ideology which rises up from its economic reality and the religion which it preaches?

Marxism cannot deny the existence of a religion with persons not related to the circumstances of economic oppressions and the firmness of the hold of the faith on the heart of some of these persons to the degree of sacrificing their

very life for its sake. This clearly proves that a thinker does not always get inspiration to an ideology from economic reality, for the religious ideology was not an expression of their misery and the deep sight of their hard lot; consequently it was not a reflection of their economic circumstances but was a creed which corresponded with their mental and intellectual conditions: they believed in it on the basis of their ideology.

Marxism is not content with giving class-economic explanation of religion, but holds more than this. It tries to explain its evolution on the economic basis, too. (It says), when the economic conditions of a people developed and facilated it to set itself up as an independent community the gods its people worshipped were national gods whose authority did not exceed the bounds of the national territory of the people they were called to protect. After these people ceased to exist as independent nation on their being incorporated in the world empire —The Roman Empire, there arose the need of a world-religion too. Christianity was this world religion and it became the formal religion of the state two hundred fifty years after its birth. Thereafter Christianity was formed by the feudal conditions. When it in the shape of Catholicism came into conflict with the growing bourgeois forces, there appeared the movement of the protestant religious movement.

We may here observe that had Christianity or Protestantism, been the expression of the object materialist needs — as is pointed out by Marxism, it naturally would have been born grown up in the lap of the Roman Empire, which had assumed the reins of world's leadership and the religious reformation would have taken — birth in most of the communities in which bourgeois was developing and multiplying. But the historical reality is quite different from this.

Christianity did not arise at the points of political centraliza-

tion nor was it born and in the bosom of the Romans who built up the world-empire nor were they expressing it in their activities, but it arose at a place far from all these things in one of the Eastern colonies of the Romans and grew up among the oppressed Jewish people, dreaming ever since their country was made a colony of the Roman Empire at the hand of the Roman leader Bembi, six decades before the birth of Christ, of nothing but of natural independence and of breaking the fetters of their bondage to the imperialists – a matter – which cost them many revolts and the sacrifice of tens of thousands of lives during the course of these six decades. Were the material, political, economical circumstances of this people congenial to the birth travail of a world – religion which may answer to the needs of the colonizing empire?

And the movement of religious reformation, the vanguard of the movement of freedom of thought in Europe was the other movement. It too was not begotten by the bourgeois forces. Although it reaped great benefits from it but that does not mean that as a definite ideology it arose merely by the bourgeois, economic development. If that were so it should have arisen in England, for the conditions in that country were more suitable for its rise. Bourgeois in that country had grown more powerful than in any other country in Europe. Also other countries in Europe had not yet attained to the level of the economic and political development it had attained to during her revolutions since 1215. Yet in spite of this Luther did not appear in England in answer to bourgeois mentality but in a place far from it, in Germany and carried on the activity and his mission in that country. Likewise another principal leader of it, in the person of Calvin the most pertinacious, Protestant appeared in France during whose time a number of horrifying massacres and natural grappling took place between the Catholics and Protestants, and the German prince, William Orange rose with a great army in defence of the

new movement.

It is true, England after this formally adopted the Protestant creed under any circumstance, not out of the fabric of its bourgeoisies mentality but out of a mentality which existed in the feudal countries.

And if we take the Marxist ideology of religions, and apply it to Islam, another world religion, we will find glaring contradiction between the ideology and reality. Europe being a world-state was in need of a world religion but there was no world state like it, for that matter in the Arabia. There did not exist even national state consisting of Arab people only that Arab people were divided into tribal groups, a number of several tribal groups, every tribe had its god carved of in whom they believed, and before whom they bowed down. After having carved it out of stone they had made it their god and used to pay the homage of their worship for it. Did such material and political condition call for the emergence of one single world religion from the heart of such and so divided a country, and which had not yet learnt how to attain to its existence as a people and a nation, not to mention, to have the understanding of oneness of a higher category as follows from a religion which unites the entire world? So if it be that the religious gods evolve out of national gods to a world God, following upon the material needs and political formations how was it that the Arabs leapt from the god's they fashioned with their hands with a leap, to a world God, in the highest degree of abstraction, to whom they offered their submission?

B- Philosophy:

Philosophy too according to Marxism is another intellectual manifestation of the material life and economic conditions in which the society lives, and which are their positive products.

Konstantinov says:

> Among the laws which are common to the formation of all societies and in particular the socialist society, we may mention the law which holds that social existence determines social cognition. In fact the sociological, juridical, aesthetical and philosophical ideas are the reflections of the material condition of social life *(The Role of Progressive Ideas in Evolution of Society* [Arabic transl.] , p.8)

We will give briefly our view-point in this respect. We do not deny even once, the connection between ideas and the economic conditions in which the thinkers live. Likewise we do not deny the systems and laws of ideas as they being part of the phenomena of nature, are subject like other phenomena to laws, and occur in accordance with the principle of causality. Every process of ideology has its own causes and conditions to which it is correlated like all other phenomena which are correlated to their causes and conditions. Our difference with Marxism is as to the determination of these causes and conditions. Marxism holds that the real cause of every ideological process lies hidden behind the material and economic conditions, so, according to its view, it is not possible for us to explain the idea in the light of its relation with other ideas, and their mutual interaction and on the basis of the psychological and intellectual conditions, but only through the agency of the economic, for ideology has no independent history of its own or a specific development to it, but only is the history of the inevitable reflections of socio-economic and material conditions have effected in the human intellect. The scientific method by which it is possible for us to examine this inevitability and compare the theory with the course of the events and the course the intellectual and social life of man.

There are extant several texts of Marxism, for the exposition of this theory and its application to the field of

philosophy. These texts, as we shall see from the following texts at one time explain history by the change in the productive forces, and at another time by the level of the physical science, and at a third time, considers it as class manifestation, determined by the conditions of the class-order of the society.

The British Communist Philosopher, Morris Cornforth says:

> And the other thing which is worthy of our observation is the effect of technical inventions and scientific discoveries, on the manifestation of philosophical ideas. *(Dialectical Materialism - [* Arabic transl.] , p.4·0)

He means by this to establish a nexus between the philosophical thinking and the evolution of the means of production and expounds this in another content by presenting a sample of it from the conception• of evolution which dominated the philosophical rationalism by the reason of the revolutionary change in the forces of production. He says:

> The advancement of science towards evolutionary conception, and which expresses the discovery of the actual evolution of nature and society, corresponded with the development of the industrial capitalism in the later part of the eighteenth century. Obviously, this correspondence was not merely a pure correspondence but expressed a causal nexus ... Bourgeois would not have lived had not the continuous revolutionary changes in the modes of production were brought in ... it was these conditions which led to the general appearance of the general conception of the evolution of nature and society. Because of this the importance of philosophy in the generalization of laws of change and evolution, did not result merely from the scientifically discoveries but was rather tied with every movement of the new society in its entity *(ibid.* [condensed], pp. 8 — 9).

Thus the means of production were changing and taking new forms, and flinging at the brain of the philosophers the

conceptions of evolution which put an end to the static philosophical theory of nature and transferred it to revolutionary view which corresponded with the continuous evolution in the means of production.

We would content ourselves with saying that the revolutionary changes in the means of production began in the later part of the eighteenth century as Cornforth himself has pointed out that after the invention of steam-engine in the year 1764. Which represents the first actual revolutionary change in the mode of production. But formulation of the conception of evolution – on the material basis – preceded this date, at the hand of one of the great leaders of materialist philosophy the eulogies of whose views and whose glory, Marxism recites, I mean Diderot, (i) who appeared in the realm of philosophy in the first half of the 18th century with materialism moulded in the form of self evolution. He said matter changes by self-movement and explained life on the basis of evolution. According to him the living, evolve first from the' cell created by the life-matter (protoplasm) whence the organs create needs and needs create organs. Therefore, did Diderot obtain this philosophical conception of evolution from the revolutionary changes in the mode of production which appeared on the stage of production later on?!

It is true that radical change in the production field prepares to a certain extent, the acceptance of the philosophical idea of change and its application to all the accompaniments of nature. But this does not mean necessary causality and an inevitable tying up of the philosophical idea of evolution with the evolution of production not admitting of antecedence or subsequence. If that were so how did it permit Diderot to outship this claimed inevitableness?!/or, for that matter it permitted philosophers who lived more than a thousand years before make evolution the basic principle of their philosophy?

On the other hand, the Greek philosopher Anaximander[1] who lived in the sixth century B.C. gave to philosophy a conception of evolution which was not different in essence from the conceptions of evolution prevalent in the age of capitalist production. He held that creatures in their first state were lowly things then impelled by the power of their native motive force moved on by evolutionary process to higher and higher steps to concordance between itself and the external environment. Man, for instance, was aquatic animal- but when water was swept off, this aquatic animal was obliged to seek congenial environment. So he acquired by the passage of time organs suitable for locomotory movement, to enable him to move up about on dry land and thus became man.

The other philosopher was Heraclitus, whose share in the conceptions of philosophical evolution was great. Even Marxism considers him an outstanding exponent of the essentials of dialectics, and esteemed highly his views in respect of the theory of evolution. Heraclitus lived in the fifth century B.C.[2] He gave to the world of philosophy the conception of evolution based on the opposites and the dialectics. He affirmed that nature does not remain in a fixed state but is in continuous flux. This change from one form into another form and the motion are the reality of nature, for the things will not cause changing from one state into another up to the end of eternity; and explains this motion by the law of opposite which means that a thing in motion `is' and is changing that is existent and non-existent at the same instance and this union of two instances of existence and non-existence is the meaning of motion which is the essence of nature and its reality.

This philosophy of Heraclitus, if it proves anything, it proves

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1. Anaximander born 611 B.C. died about 547 B.C. approximately.
2. Heraclitus born 535 B.C. died 475 B.C.

that Marxism was mistaken in its explanation of philosophy and its emphasis on its lying up the advancement of philosophy with the advancement of the mode of production and technical discoveries. Especially when we learn that Heraclitus was the most behind hand in the philosophical advancement of his time and its discovery in nature and astronomy and not to mention, its present-day-advancements; so behind hand that he even believed the diameter of the sun was one human footstep, as appears to the eye and explains its setting as extinguishment of it in water.

And, why go so far, when we have before us the great Islamic philosopher Ṣadru 'd-Din ash-Shīrãzi (Iran) who brought about a mighty revolution in the Islamic philosophy at the rise of the 17th century, when he presented to the Islamic Thought with the most profound and philosophy which the history of this thought had ever witnessed and established by his philosophy the essential movement of nature and the continuous evolution in the essence of Universe on the basis of abstraction philosophy. He established this in the days when the modes of production were at standstill in the traditional shape with the passage of times and every thing in life was at standstill, yet the philosophical guidance impelled our philosopher ash-Shīrãzi to the affirmation of the law of evolution of nature in the face of all this.

It is then, that there is no inevitable relation between the philosophical conception and the economic forms of the productive forces.

Then, there also is another thing of special significance in this connection. That is, if the economic system of the productive forces and their relations were the sole real basis for the explanation of the intellectual life of society including the philosophical ideas current there, then the natural consequence of it would have been that the advancement in the philosophical ideas would have followed the evolution in the economic form and would

have run its course in accordance with the movement of the completion of the relations of production and its forces. According to this it would become necessary that the trends towards philosophical advancement and the great philosophical revolution should spring from and born in the countries, economically highly advanced. Thus the share of every country in the matter of ideological progress and revolutionary philosophy shall be in proportion to its share of economic development and precedence to the circumstances of production and its relations.

Is this sequence in consonance with the history of philosophy? This is what we are now proposing to know.

Let us take a look at the state of Europe when the first gleams of new revolutionary ideas flickered on its horizon. What we see is England enjoying the relatively highest degree of economic development. The like of which France and Germany had not been able to achieve. The English people had achieved great political gains which people of France and Germany had been able to achieve nothing of these things. The technical economic forces (bourgeoisie forces) in England were in a flux of continued increase, and did not resemble the form of these forces in other countries. In brief, the social form of England with its economic and political conditions, according to Marxist belief was on the higher steps of the ladder of historical development than that of France or Germany. For England started its revolutionary movement of liberation (1215 A.C.)and made it a plunge into the great revolution, in the middle of the seventeenth century, (1648 A.C.) under the leadership of Cromwell, while the decisive conditions for revolution had not been ready in France till the year 1784 nor in Germany till the year 1848. These revolutions were bourgeoisie revolutions springing from their degree of economic development. According to Marxism, prove by what they point as to the time difference between them to the precedence of England in the economic field.

If England was economically developed more than any other country, than it was natural, on the basis of Marxist theory for it to take precedence over these other countries in the field of philosophy and to become more progressist than they in its philosophical trend which, according to Marxism, is the material trend which should be more advanced when it is founded on the basis of change and motion.

Here we may ask. Where was materialism born and attained maturity? In which country its first glimmerings appeared and then lolled out the tongue of its storm. It appears here that Marxism will find itself be pushed in a critical position for its theory to the interpretation of philosophy on economic basis calls upon it to say at economic development of England imposes upon her to appear on the stage of philosophy with progressive trend or in other words, material trend. It was because of this that Marx sought to say, that the materialism was given birth in England, at the hand of Francis Bacon and the Nominalises (Marx: *Socialist Interpretation of History, p.76)*

But we all know that Bacon was not a materialist philosopher but was sank deep in idealism. He only urged upon experiment and encouraged adoption of empiricism method in investigation. As for the English nominalist belong a kind thinking of materialism, then there have been before them two philosophers. French philosophers who having this kind of philosophical idea in the early part of the fourteenth century. One of whom was Duran-de-san Boursan and the other was Pierre Orival. And if we want to dive deeply in our search in respect of the preamble thoughts which prepared the ground for the materialist trend prior to Nominalist movement, we will find the Latin version of the movement to Averroism which appeared in France in the thirteenth century, and into which the majority of professors at the Paris university of arts adhered. At their hand, separation of philosophy from religion was effected and with that began

the trends towards denial of the universally accepted principles of religion.

The materialist trend was disclosed in its explicit form by a person or persons, like Hobes in England; yet it was not able to gain dominant philosophical position in England, or seize the reins from the hands of idealism. While it effected so great a materialist storm on the philosophical stage in France that it drowned that country in the materialist trends. And at the time when the intellectual France was feasting itself with and making the most of Voltaire, Diderat and their likes, from among the leaders of materialism in the eighteenth century; we find England in wallowing in the deepest and the ugliest form of idealist philosophy poured out by the hand of George Berkeley and David Hume, the chief missionaries of the modem idealist philosophy.

Thus the results have come quite contrary to Marxist's expectations in history. For the idealist philosophy or in other words the most reactionary philosophy according to Marxism, blossomed in the most advanced and the economically and technologically most developed country whilst the strong winds of materialism chose for them a place in a country economically and socially backward like France. For that even evolutionary materialism and the dialectics themselves did appear in Germany when it was several degrees behind England as to its material conditions.

Yet Marxism wants us to confirm its interpretation of the philosophical thinking and its evolution on the. basis of the economic formation and its development.

If Marxism also tried to find justification from the variations as to explain away the exception to the laws, then what shall remain with her as a proof of the soundness of the law itself, to constitute these variations as exceptions?? Why do not the variations constitute as a proof of the unsoundness of the law

itself instead of our seeking from here or there excuses for it?!!!

From this we deduce what has been stated above that there does not exist inevitable relation between the philosophical conceptions of the society and the economic system of the productive forces operating in that society.

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As for the relation between philosophy and natural science, it depends upon the detailed study and examination of the determination of the meaning of philosophy and the meaning of science and the basis upon which philosophical and scientific thinking rests to enable us to learn as to the inter-connection and interaction between the two departments of knowledge. This we shall learn from our book *Falsafatunã* but we will not leave this occasion without expressing in general terms our doubt about the assumed following of natural sciences upon the heels of philosophy. It has happened at times, that philosophy has been before science in taking some of the directions in the explanation of nature, and then science took part, in its own special way with same course. The most obvious example of it is the atomic explanation of nature which was given by the Greek philosopher, Democritus and in the course of history, several schools of philosophy were founded on that basis before natural sciences had reached the level in which made it possible to prove this explanation. The explanation continued bearing the characteristic stamp of philosophy till it found its way to the field of science in 1805, at the hand of Dutton who sought to make use of the atomic hypothesis to explain static relation holding in chemistry.

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So, the only thing which remains for us to inquire into the clarification of the class-stamp of philosophy, for Marxism asserts that philosophy cannot be divested of its class frame, rather it is the permanent elevated rational explanation of the interest of a definite class. Morris Cornforth says:

> Philosophy always expresses and cannot but express the class outlook. Since every philosophy represents the world outlook of a certain class, a way by which a class achieves its historical position and its historical aims; schools of philosophy represented the world outlook (view) of the privileged class or of a class which has been fighting to become a privileged class. *(Material Dialectics:* [Arabic transl.] , p.32)

However, Marxism is not content with saying this in a general way, but dots the 'i's and crosses the 't's of this pronouncement of it; and asserts that idealist philosophy (and by this it means every philosophy which denies material explanation of the universe) is a philosophy of the ruling class and exploiting minorities which embrace the idealism —throughout the history — as a conservative philosophy to assist it for keeping up the old standing on its legs; where as the materialist philosophy is the opposite of this. Since it always expresses the philosophical conception of the oppressed classes, stands up by their side in struggling and consolidates the Democratic rule and the people's guardian. (vide: *Studies in Social Life* [Arabic transl.], p.81).

Marxism expounds these opposite stand point of the idealist and materialist philosophies on the basis of their difference as to the theory of knowledge of these two philosophy. In doing so, it lands into the confounding of the theory of knowledge vis-à-vis the field of nature with the theory of knowledge vis-à-vis the field of ethics. It thinks that the emphasis of idealist philosophers on the absolute realities of existence implies their belief in the existence also of an absolute guardian for the social formation.

For as long as the idealists or metaphysicians, believe in the highest reality (Allãh) the absolutely existent and absolutely established (God); it believes also that the highest manifestations of society as to government, political and economic formations are also absolutely established realities or not admitting of their alteration or replacement by another thing.

The fact, however, is that the existence of the absolute realities according to the philosophical theory of knowledge as held by the metaphysicians and its concept of existence does not mean the acknowledgement like this of the absolute general inclusion of the social and political field. It is because of this that we find Aristotle, the leader of philosophy of metaphysics, believes in relativity in the political field, and owns that (the conception of) the good government differs with the difference in the existing state of affairs and circumstance and that his belief in the absolute realities in the field of metaphysical philosophy did not prevent him from a belief in this relative goodness in the social field.

We will leave a minute study of this aspect to our work *Falsafatunã* and stop here for a moment to think as to whether history confirms those claims which Marxism makes in respect of the historical class trends of idealism and materialism.

We may choose two examples in particular from the history of materialism the first of them, Heraclitus the greatest materialist philosopher of the ancient world and the second, Hobbes, who is considered the pole-star of modern philosophy.

As Heraclitus, he was as a man the farthest from public spirit which Marxism has poured copiously into the essence of its materialist philosophy. He belonged to an aristocratic noble family enjoying a high position among the citizen of Greece. Good fortune had willed to raise him gradually from one high position to another in the state till he was installed as the governor of a dependency. He expressed always and in all his

dealings his aristocratic disposition, was disdainful towards the people, and looked with contempt at them, and even sometimes would call them as "cattle preferring grass to gold" and sometimes to call them "dogs barking at every one they knew not".

Thus in the ancient time dialectical materialism was given concrete form at the hand of a person who can be called the prop of the proper role. Whilest the founder of idealism, in the Greek world, Plato, preached a revolutionary thought which was embodied in the absolute communistic system pronouncing doom and destruction of every form of private ownership. So, which of the two philosophers were nearer to revolutionism and principles of liberation according to Marxism?

And Hobbes, who held aloft the banner of pure materialism in the age of renaissance, in opposition to metaphysician. Descartes, was, as to constitution, no better than Heraclitus. He was a tutor of a prince of the royal family of England (the prince was later installed on the throne of England under the name of Charles the second in the year 1660) during whom the great popular rising of the English people took place under the leadership of Cromwell and the revolution demolished the throne of the monarchy and erected in its place the republic, with Cromwell as its head. Due to his relationship with the prince, our materialist philosopher was compelled to flee and take refuge in France which was the strong hold of monarchy. There, he continued help advance to the idea of absolute monarchy and wrote his book *Leviathan* in which his political philosophy was given. In it he laid emphasis on the need of divesting the people of their liberty and the establishment of monarchy on the basis of absolute autocracy. And at the very time that materialist philosophy was emphasizing this political trend at the hand of Hobbes; (metaphysical) philosophy was taking an opposite stand in the person of a number of its eminent champions, who were the contemporary of Hobbes like the mystic philosopher Baronch

Spinoza who believed in the right of the people to criticise the ruling authority even to revolt against it and preached the democratic rule in whatever amplifies the participation of the people in the ways of governing and strengthens the unity.

So which of the two philosophies is in the cavalcade of democracy and in the cavalcade of autocracy, the philosophy of Hercalitus, the aristocratic, or the philosophy of Plato, the exponent of the republic in a book of that name? The philosophy of Hobbes, the autocratic or the philosophy of Spinoza, the preacher of the people's right of participation in the government.

Now, there remains for us one other thing to turn our attention to. It is this; since philosophical thinking according to Marxism, is a class thinking will always be partisan thinking — (with a permanent tinge of party prepossession and party bias). In such a case, then, it is not possible for a philosopher to study matters of human thought in a purely objective manner, but on the contrary, all such studies are noisily tinged with party colour. It is because of this that Marxism does not keep from displaying party spirit in its philosophical studies and in its particular thinking and acknowledging the impossibility of adopting objectivism in respect of the discussion of such matter or toward thinkers. It always reiterates that adoption of objective viewpoint and complete impartiality is a bourgeois idea which must be ruled out. The great Marxist writer Chagin says:

> Lenin has always contended with firmness and persistence . . against objectivism in theory and against the non-partiality and non-partisanship of the bourgeoisie. Since the year 1890, Lenin has been directing spear thrust against the bourgeois objectivism advocated by the revisionists who were criticizing the party view-point in theory and demanding freedom in the the field of theory. . . he made it clear in his fight against the Marxist — revisionist and against the tendency of the reactionaries that the Marxist

> theory must declared with clarity, even to the utmost, the principle of proletariat party-spirit . . . and in order to evaluate properly this or that event in the social evolution the look at it should be from the angle of the interest of the working- class and the historical evolution of this class . . . for it is the party-spirit which impresses upon the mind of the working- class the historical need of the proletariat dictatorship rather than the scientific justification of it. (Chagin: *Partisan Spirit in Philosophy and Science,* [Arabic transl.] , pp.72 - 79)
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> Lenin himself said:
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> Materialism enjoins party stand point for in the evolution of every event it compels the adoption clearly and without subterfuge, of the view point of a definite social group. *(The History of the Evolution of Philosophy,* [Arabic transl.], p.21).

It was on the basis of this that Gidanov directed slashing criticism against the book on the history of Western Philosophy by Alexandrov, in which the author calls for showing indulgence and adoption of objective attitude in the discussion by saying:

> What important, on my view point, is that the author quotes from Chrnyshevski, to explain that the founders of different philosophical systems, even the opposing ones, must be more indulgent to one another. But the author quoted this passage (of Chrnyshevski on indulgence and objectivism) without comment. It is then clear that it represents his own personal point of view. And, since it is like that, he was obviously applying the principle of denying the party stand in philosophy, which is essential in Marxism-Leninism. *(The History of the Evolution of Philosophy* [Arabic transl.], p.18).

We on our part, may ask in the light of these texts; what does Marxism intend by its accentuation on partisan approach

in philosophy and proposition towards the view point of the class whose interest it stands for? If Marxism means by it that Marxist philosophers should make the interest of the working class the criterion for the acceptance or rejection of any view (or opinion) and should not allow themselves to adopt any ideology which conflicts with that interest though there are multiple proofs and evidences, the meaning of this will be that it will wrest from our minds any 'trust in their dictum and make us doubt belief in any opinion they express or any ideology they ardently uphold. It is then possible that Marx knows better than anyone else of his errors which he was defending and presenting them as miracles of contemporary thought.

But if Marxism means by partisan stand that every individual is related to a class and upholds its interests, being drawn without intention towards any of the conceptions and views which meet with the interests of that class and howsoever he may try to make a pretension of and impose upon himself the objective attitude in discussion, it is not possible for him to get himself rid of his class bias and class character. If this is what Marxism means then it amounts to acceptance of subjective relativism which it has been always fighting against.

Possibly the readers of our book *Falsafatunã* may be remembering the doctrine of subjective relativism. This doctrine holds that truth is not conformity of idea with objective reality but the conformity of the idea with the particular conditions of the psycho-physiological constitution of an individual's mind. Truth in respect of every individual is what conforms with the particular constitution of his mind and not what conforms with the external reality. It is for this reason a subjective reality in the sense that it differs from one person to another and that what is true for one person, is not so for another person.

Marxism has fulminated violently against this subject of relativity and considers truth to be that which conforms with

objective reality. And since objective reality can be changing, evaluating, then the truth also will reflect it changingly. Thus it is a relative truth. But the relativity here is objective, resulting from objective reality and not subjective, resulting from the psycho-physiological constitution of the individual thinker. This is what Marxism says in its theory of knowledge. But by its emphasis upon class and partisan stamp of thought and upon the impossibility of a thinker's dispossessing himself of the interest of the class with which he is related, bring it to the path of subjective relativism *de novo,* since truth comes to be that which conforms with the interest of the class to which the thinker belongs, for no thinker is able to cognize the reality except within the bounds of his class-interest. Hence when Marxism presents to us its conception of nature and society, it will not be possible for it to claim for its conception the power to present the picture of reality, all that it will be able to establish on the reality sides will be that it reflects what corresponds with the interest of the working-class. The criterion of truth, for every school of thought is the extent of the agreement of the ideology with the class-interest which it stands for. And truth, by then will become relative for it is differing from one thinker to another, not according to the psychological and physiological constitution of the individuals, but according to class-constitution and class-interests to which the individuals are related. So the relative-classtruth differs with the difference of classes and their interests, and not objective relativity for it is neither possible to assure that the truth contains of an objective part of reality nor to fix it as long as Marxism does not allow the thought, whatever be its character or colour, to exceed the bounds of class-interests, and as long as the class-interests always suggest what thoughts to be diffused, regardless of being wrong or right. This will result in a strong doubt about all philosophical facts.

C-(Scientific) Knowledge:

We do not propose to make a long stop before scientific ideas, for fear of the recitals. Nevertheless, whatever our stopping be, Marxism will repeat the same song which we have been listening to in the field of philosophy as well as in the field of everyone of the various utilities of human existence. According to its opinion, all the natural sciences progressively advance and grow in correspondence with the material needs opened up to them by the economic formation, and take on new forms step by step in the wake of the development and improvement of the economic circumstances and conditions. But since these circumstances are the historical consequences of the productive forces and modes of production, there is no wonder if Marxism reaches in its interpretation of the scientific life the same result as it did at the end of every course of its analysis of historical movement and many sided operations. For every historical phase is economically shaped in accordance with its mode of production, and partakes in the scientific movement to the extent, imposed upon by the economic reality and its material needs springing from this reality. For example, the discovery by science of the motive power of steam in the later part of the eighteenth century was born of the economic conditions and was the outcome of the need of capitalist production for a great power for running the machinery upon which this production depended. The same was the case with all the inventions and discoveries with which history of science is brimming.

R. Garaudy in elucidating the dependence of sciences upon the technical and economic form of the productive forces, mentions that it is the technical level the productive force attain to which poses problems before the science and imposes upon it the duty of search and the seeking of their solution. It advances and improves as it engages itself in finding solution of these

problems, arising from the development and evolution of the productive forces and their professional and technical forms. On this basis, Garaudy explains to us how it is that several scientists could simultaneously achieve the same discovery like that of the equilibrium of heat and work made at the same time, by three scientists namely Camot, in France, Joule, in England and Mayer, in Germany. Just as the development of the productive forces place before science problems for solution, so likewise, he explains the dependence of sciences upon the form of productive forces by another reason. It is that the development of the form of these forces prepare for the science the tools and instruments of investigation to make use of and assures it the supply of all the instruments necessary for making observation, experimentation and test. (vide: *Partisan Spirit in the Sciences,* [Arabic transl.] , pp.11 -13).

In what follows we will give our observations on this Marxist stand point as regard the explanation of the science:

a- If we make exception of the modem time, we will find that all the societies which existed before were to a great extent alike as to their means and modes of production and there was no essential difference whatsoever between them in this respect, Simple agriculture and handicraft were the two forms of production in these different societies. This means, according to Marxist usage, that the basic principle on which these societies were found was the same, yet in spite of this, they differ a great deal from each other as to the level of scientific knowledge. So if the forms and instruments of production were the main factors which determine, the contents of the (scientific) knowledge of every society and the progress of the movement of science according to the degree of its historical development then we would neither be able to find the explanation for this difference nor the justification for the flourishing of science in a society over another inasmuch as the main force which makes history is

one in all these societies.

Then why did the society in Europe of middle ages differ, for example, from the Muslim societies in Spain, Iraq and Egypt, when the basis shared in common by them was of the same kind? And why did the scientific progress in the Islamic societies flourish in different fields in a relatively high degree while not a glimmer of it was found in the Western Europe which was astonished during the crusade ward by what it found from the Muslim nation of sciences and civilization?

And why was it that ancient China alone was able to invent the printing press and that no other society was able to do so, but had come by it through her? The Muslims acquired this art of printing from Chinese in the 8th Century A.D., and from the Muslims, did Europe in the 13th Century A. D. Is it that the economic basis adopted by the ancient China differed essentially from that of other societies? !

b- Though, in many times, the scientific efforts express the socio-material need for innovation, this need cannot be the only principle interpretation of the history of science and its progress. For many needs have remained thousand of years waiting the scientific word on their concern. Their simple existence in the human material life, did not enable them to attain any part in the science, until the time came to science itself to reach a degree which foreordained it to fill this need. Let us take as an example of a scientific discovery which can now appear banal, yet at that very moment a brand new scientific progress; it is the invention of eyeglass. The necessity of human being towards an eyeglass (for example) is old as well as man himself. But this material need remained awaiting its final round until the dawn of the 13th century, when Europe had been able to acquire from Muslims their knowledge about the light reflection and diffraction. Subsequently, the scientists were able to fabricate the eyeglass according to these facts. Therefore, was this scientific event a newly

necessity born through the economic and material reality of the societies?! Or was it an outcome of thinking factors which led to the degree of progress and perfection?!

And if there is any possibility to interpret the science and scientific discoveries through a need springing from economic situations, then how can it be possible to us to understand the European discovery in the 13th century of the magnetic power to determine the direction, when the magnetic needle was used to direct the course of the ships?! Since the maritime route was the principle one for trading during the precedent centuries. The Roman mercantiles depended mainly on the sea-route; and in spite of that, it neither became possible for them to discover from the magnetic, its power to direct the ships; nor did their needs arising from the economic reality intercede on their behalf; while some historical traditions tells us that China had succeeded in discovering it for nearly twenty centuries ago.

It has happened for science to be a head of social needs in its conquests in case the ideal conditions for its new conquest have been complete. The motive power of steam was, according to Marxism, one of the need of industrial capitalist society. Yet science discovered it in the third century A. D.* more than ten centuries before the first indications of industrial capitalism had made their appearance on the stage of history. It is timely that the old societies did not exploit this power of steam, but we are not inquiring about the extent of the capacity of the society as to its deriving benefit from the sciences, we are inquiring about the scientific movement itself and studying as to whether the movement is an intellectual interpretation of regenerated need of the society or is an original movement having its psychological condition and particular history.

c- When Marxism tries to narrow the scope of science on

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* Vide Garaudy. *The Partisan Spirit in Philosophy and Science,* (Arabic transl.) p.12,

the matters and problems which the means of production and their technical forms confine, it falls into the error of confounding the physico-theoretical sciences on one side, with the practical arts on the other. The applied manufactural arts which arise during the course of the usual experiments and probation which are acquired and inherited by the labourers were always subjugated on account of the forces of production and grow subject to the difficulties and questions presented by these forces, and which are demanding mastery answer over them. As for the experimental theoretical sciences, these did not depend upon these difficulties and questions. On the contrary, we find progress of the theoretical science, and the development of an applied art ran their course on two separate lines for a great period of time from the 16th century to 18th century. Thus two centuries passed after the birth of the science in the 16th century before it was possible for the applied art to make a mutual adjustment and this state of affairs continued until the beginning of the electrical industry in the year 1870.

It will be profitable for us to learn in this respect that the general public did not accept the scientific revolution in chemistry which Lavoisier had effected till at the end of the 18th century. And during that the applied arts had been able to make improvements in the iron and steel industry before the artistic-handicraftsmen had learnt the basic chemical differences between wrought iron and hard iron and steel due to the presence of relatively different quantities of carbon in them.

This separation for a long spaces of time between the line of the scientific thinking and the unmingled knowledge of practical art means, that science has its own ideal history and is not only the outcome of the regenerated needs and in fulfilling of their technical requirements.

As for Garaudy's observation about the same scientific discovery made by several scientists at the same time, this does not

prove that the scientific discoveries are always given birth to by the technical conditions, of the means of production as the Marxism wishes to infer from this phenomenon claiming that when the economic and material conditions permit the forces of production to posit a new problem to the scientists and compel them to think out a solution for it, these scientists reach the required solution in times very close to each other because the motive force which drove them to it occurred at the same time during the development of the production.

But this is not the only possible explanation of this phenomenon. On the contrary it is possible to explain it on the basis of the similarity existing between these scientists as to their knowledge, the psychological and ideal conditions and the general scientific level.

The presence of the occurrence of such a phenomenon, in the field of theoretical science, having nothing to do with the problems of production and its development, argues to the possibility of such an explanation. Here is an example of it. Three political economists, dawned upon the theory of economic equilibrium and mutual dependence of prices; at one and the same time. These economists are: Jevons, the English (1871) Wolross the Swiss (1874) and Karl Menger, the Austrian (1871). This theory of mutual dependence is only a definite theoretical explanation of old economic manifestation in the life of human society – the exchange value. Thus the scientific content of the theory has no connection with the problems of production or the progress of productive natural forces.

What explanation could be given of these three eminent economists to have arrived at a specific point of view at one time approximately except that these three were very close to one another as to their ideal conditions and their analytic power?!

d- As for subordination of the physical sciences to the development of the productive forces, as the source which pro-

vides science with its necessary instruments for investigation, it is in fact to reverse the relation which exists between them. This is because, though the physical science makes progress with the help of the instruments it attains such as microscope, telescope recorder etc., which enable it to make experiments, tests and minute observation, yet these instruments themselves are the products of the science which it presents before the scientists in order to make it feasible for them, by the use of these instruments to formulate additional theories and to discover unknown mysteries. The invention of the microscope in the 17th century caused a revolution in the means of production for it was able to remove the curtain from the invisible world which man would never have been able to fathom on it. But what is this micro-scope? By itself is a product of science, and the disclosure of the laws of light and the condition of its reflection on lenses.

We should know it in this respect that the instruments do not give the whole story of science for though many of the truth which the instruments of their investigation were ready, yet they remained unknown to man till the mutual interaction and completion of scientific thought reached to a degree which made it feasible for it to discover the truth and to mould it in a particular scientific conception. We can present a simple example of this from the idea of atmospheric pressure, this idea which is considered as one of the greatest conquests of science in the 17th century. Do you know how science was able to register this grand victory? It registered it in the idea which suddenly occurred to the mind of Torricelli when he observed that the water-pump was not able to lift the water higher than 34 feet. This thing had been observed by thousands of labourers in the course of centuries, as also by the great scientist Galileo in particular, but the momentous thing which Torricelli was destined to present to science was the explanation of the phenomenon which was known for centuries. He said the limit to which the pump lifts the water,

does not exceed 34 feet, then this must be measure of t. certain pressure of the atmosphere. And if the atmospheric pressure is able to lift water upto 34 feet vertically then it must be able invariably to lift up mercury to a lesser height vertically than water, for mercury is heavier than water. He soon assured himself of the correctness of this result and established by the method a scientific proof of the existence of the atmospheric pressure, a matter on the basis of which are established many of the discoveries and inventions.

We should make a stop at this scientific discovery, as a historical event in order to ask the question; why did this historical event occur at a definite time during the 17th century and did not take place before this? Was not man in need of the knowledge of the atmospheric pressure before this time to make use of it and husband it for meeting various of his needs? Was not the phenomena in the light of which Torricelli formulated his theory, known for centuries from the very day the water pump came into use?! Or was not the experiment, by which he established his theory, scientifically easy for anyone else who had observed it but had not tried to interpret it?!

If we do not grant to the movement of science as to its root and development arising in accordance with the interaction and accumulation of thoughts and their particular psychological and ideal conditions, then neither this scientific discovery nor science in a general way will find its complete explanation concerning the forces of production and the economic formations.

We will not talk at this moment about the social ideas and their relations with economic factor for this point will be the subject matter of discussion in this book.

3- CLASS - CONCEPTION OF MARXISM

One of the essential point in Marxism is its conception of class,

formulated in accordance with its general method of incorporating socio-economic study and always looking at the social significances within the economic framework. It holds the view that classes as social manifestations are only the expressions of the economic values with a class stamp mark, in the form of interests, profit and kinds of usufruct, dominant in a society; such as profit, interest, rate, and other forms of exploitation. For this reason, it lays emphasis on the fact that the economic factor is the real basis for the structure of the class and for the emergence of any class; inasmuch as the division of men into a class possessing all the means of production and the class not possessing any of the means of production is the historical cause of the presence of classes in the society in their various shapes and forms, (class of) slaves as serfs or wage labourers, in accordance with the usufruct which the ruling class has prescribed for the ruled class.

When Marxism has given economic conception to the class as arising from the possession and non-possession of the means of production, it was but natural for it to hold the belief that the class-structure of the society was founded on an economic basis inasmuch as this results from its concept of class itself.

Perhaps this point is one of the most obvious example of analytical points of Marxism, as it is avid of putting on all social significances the economic interpretation and grafting upon them of particular economic value; and it has discharged this function with efficiency.

But the acumen in analysis on theoretical view has put upon Marxism the task of parting away with the real logic of history and the nature of things not as they reveal themselves or follow in succession in the mind of Marxist scholars but as they reveal themselves in the reality, inasmuch as while the Marxist analysis postulates the economic fact — the possession of the means of production and the non-possession of it —is the real and historical

basis of the class- structure and the social division of ruling class—because it does possess and the ruled class, because it does not possess —the historical reality and the logic of event demonstrate on many occasions the contrary and make it clear that it is the statutes of classes which is the cause of the economic formation by which these classes are distinguished. Thus the economic form of a class is determined by her class entity and not that her class entity is the result of her economic formation.

And the greatest conjuncture is that when Marxism decided that the class-structure is founded on the economic basis, and when it laid stress upon the fact that the class is the result as to the possession, it did not reach the result which should have resulted logically from it; and that result was the activity in the working fields is the only procedure of achieving social status and the creation of an upper class in society. For if the class creation of the upper ruling class in the society were the result of the possession — economic formation — then the creation of this ownership was invariably necessary for it to become a ruling upper class, and there was no way of acquiring it except through the activity in the fields of labour. This might be the oddest result the Marxist analysis chums up, on account of its interval from reality; and if not, then when was activity in the fields of work the basic way of the formation of the ruling class in the society? And if this result, which follows logically from the Marxist analysis, were applied to the historical period, it can be only applied to the capitalist society in its formative and completionary period; so as to make it possible for anyone to say that the capitalist class built up its class entity by way of ownership it acquired through its indefatigable activity in the field of work and production. As for the other historical circumstances it was neither the practical activity the basis of the creation of the class nor was the chief pillar of the ruling class during all the ages. On the contrary, the state of ownership made

often its appearance as a result of the formation of the class, and not as the basis of it.

If that were not so, how are we going to explain the demarcation lines set up, in the Roman society between its nobility and laity, consisting of the class of businessmen who approached nobility in the possession of fortunes and enjoyed the properties not less than those of nobles, yet there was great difference between them as to their social status and of the special political powers by which the nobles were distinguished from the businessmen and other groups? !

And how are we to explain the existing of the class of Samurai enjoying great privilege and in the ancient Japanese society, which comes in the social hierarchy, immediately next to the feudal lords, and which for its class-formation relies upon its swordsmanship and horsemanship; not upon its ownership and its economic values.

And how are we to explain of the caste-system of social order in the Indian society by the Veda-Aryans who invaded India, over two thousand years ago, became the rulers of the country and established therein class social order, based on blood and colour, and then the class formation developed, that the ruling-invador-class divided into castes the victor class becoming shatriya (warrior caste) on account of its military competency and fighting skill, and the Brahman caste, which was founded on the basis of religion (the priestly caste) and the all of the remaining groups consisting of merchants, and artisans and who owned the means of production, were subordinate to these two former classes. And the aborigines (the original inhabitants of the country) who held fast to their religion, occupied the lowest position in the caste-hierarchy, form the class of untouchables (shurdru). So neither the possession of property had influence in this class formation established on the military, religious and racial basis and has continued to exercise for

centuries its social function in the land of India, nor did the possession of means of production help the merchants and the artisans to raise them up to the rank of the ruling class or to compete with these classes for the political or religious powers.

And lastly, how are we to explain the establishment of the feudal order in the Western Europe as a result of the Germanic conquest if we were not to explain it militarily and politically. We all know – and even Engels himself used to recognise it that the social position of the victorious leader of whom this class was formed, was not the result of their possession of feudal property followed from their social rank and their particular military and political privilege as victorious invaders who had entered a vast land and had divided it between them. Hence the ownership of the land was the effect not the effective factor.

In this way we find non Marxist elements, and conclude to non-Marxist results on their analysis about many of the class-structures of various human societies.

In this respect Marxism can try to defend its class conception by holding out the view of the reciprocal relation between the economic factor and various other social factors – a matter which cause it to be influenced by them and shape itself in accordance with; just as it influences them and takes its share in their formation.

However, this attempt itself is sufficient to demolish the historical materialism and to pronounce a death decree against its giants scientific of glory held in the Marxist world; that it thereby becomes an explanation of history like many other explanations differing from them only in its emphasis on the economic factor as being more important in comparatively along with its acknowledgement of these other root factors taking part in the making of history.

If Marxism has been mistaken in making the economic formation as the sole cause of class formation, then we come to

learn from this that it had been mistaken also in giving it a purely economic conception. For if the class is not always established on an economic basis in its social-structure, then it will not be correct for us to regard class as the pure expression of a definite economic value as Marxism claims to be, a matter that has made it reach strange analogous results to which its view led her in accounting for the formation of the class, and the justification of their results. We saw that when Marxism held that a class is formed only in accordance with the economic conditions and the state of ownership, this obliged her to say that the activity in the field of labour is the only way of attaining to social elevation. Likewise it is possible for us to observe now that if we give the class its Marxist conception, or rather its pure economic conception which says that a group which lives upon its labour forms one class and a group which lives upon the exploitation of the means of production which it owns forms another class, and do not put any other consideration into the conception of class, except these economic values just as Marxism insists upon it, its meaning surely would be that we will be registering the great physicians, engineers, managers of commercial foundations and great companies into the same class which consists of the mine-workers, the agricultural and industrial wage-labourers, for they are all wage-earners, while it will be necessary for us to put a boundary class limit between these wage-earners, and the owners of the means of production irrespective of whatever be the amount of the wages of the former and whatsoever be the nature of the abundant means of the production of the latter. Inasmuch as struggle between classes is Marxist coinage that it is unavoidable by the classes, it will then give us a picture in which we will see the members of the class of owners of the small means of production standing on their class-struggle by the side of the exploiting class proprietors while the highly wage earning among engineers and medical specialist

standing by the side of the exploited toilers. And thus the manager of a big business enterprise will change into a wielding worker who rushes himself into a battle against the exploiting properties, as a result of incorporation of the social facts into the economic values, and of assuming of the economic apparatus as the basic factor in the income distribution of the social classes.

We draw two important conclusions from our examination of this Marxist analysis of class concept.

First of them is that the establishment of classes in a society after the legal annulment of the private property is possible, since the state of proprietorship, as we have learnt, is not the sole basis for the formation of class, and this is the result which Marxism dreaded when it laid stress on the point of the state of proprietorship as being the sole cause of the existence of the classes, in order to establish in this way the need of the decline of the class and the impossibility of its existence in the socialist society wherein private property shall be abolished. So long as it is made clear to us that the private property in its legal form is not the only cause of the existence of the social class, we may cast aside this evidence, and it will become possible to find class in one or other form in the socialist (communist) society itself as it is formed in other societies. We shall, God willing, examine more comprehensively this point at our criticism of the socialist phase of the historical materialism.

And the second conclusion is that the (class) conflict wherever found in the society does not necessarily reflect the economic values by the apparatus of distribution in the society, for, it is neither the nature of the economic side of income being in the form of wage or profit, imposes the conflict nor are the confrontations of the conflict being divided on the basis of these revenues and the economic values.

4- PHYSICAL FACTORS AND MARXISM

One of the aspects of the outstanding defects of Marxist hypothesis is its seeming obliviousness of the physiological, psychological and physical factors and the neglect of their role in history. Despite of the fact that at times they exercise great influence in the life of the society and its general state, inasmuch as it is these factors which determine the operational trends of the individual, his particular propensities and his competencies in conformity with the physiological constitution he is endowed with. These trends, compassions and competencies differ from individuals in accordance with those factors and take part in the making of history, setting up dissimilar positive roles in the life of society.

We all know the historical role which the military talents of Napoleon and his exceptional valour played in the life of Europe.

We all know the unstableness (bloom) of Louis XV and its effect on the seven years war in which France fought on the side of Austria. It was a single woman, like Madame of Pompadour, who was able to posses the will of the king and consequently to drive France to alliance with Austria in the war and to bear the burden of the unpleasant consequence, it was faced with.

We all know the historical role which the episode of the special love of as that of the English King, Henry played, resulting in the renouncement of the Catholic creed by the Royal family and subsequently by the English people.

We all know what parental love did, which drove Mu`ãwiyah son of Abi Sufyãn to the adoption of all the possible methods to obtain oath of allegiance for his son, Yazid. A matter which explains a decisive shift in the general political course of his time.

Would the history have ended in the same way it did practically had not Napoleon been a strong willed military man

or had Louis not been a weak-willed monarch ruled by his mistresses or had Henry not fallen in love of Anne Boleyn or had not a particular sentiment held sway over the heart of Mu`ãwiyah the son of Abu Sufyãn?

And does no one know what would have happened had not the natural conditions permitted the epidemic sweeping away the whole vicinity of Roman Empire and the sucking up hundreds of thousands of their inhabitants, which helped its collapse and change the general facade of history?

And also does no one know what direction the ancient history would have taken, had not a Macedonian soldier saved the life of Alexander in the nick of time, by chopping off the hand that fell down on him from behind while he was on his way to a momentous military conquest, the effect of which was extended to the passing of generations and centuries?

If these qualities of steadiness and bloom of love and sentiment were themselves effective in the history and of the cause of social events, then can we possibly explain them on the basis of the productive forces and (socio) economic formations so as to bring them once again to the economic factors in which Marxism believes?

The fact is that no one will have any doubt in that these qualities cannot be explained on the basis of economic factors and the productive forces. For example, it was not the means of production and the economic conditions which formed the special temperament of the King Louis XV. On the contrary had natural and psychological conditions helped, Louis could have been a man of strong will power like Louis XIV or like Napoleon for instance. His particular temperament originated from the physical characteristic, physiological and mental qualities of which his specific constitutional existence and his distinctive personality form.

Marxism would hasten to say here; was it not the social

relations which the economic factor had generated in the French society that had fixed up the form of the hereditary monarchical rule which permitted Louis to influence upon the history and to reflect his bloom character upon the military and historical events. For, in fact, the role which this king played was only the result of this system which in its turn was begotten of the economic formation and the forces of production; or else who can say that Louis would have been able to influence in the history had he not been a monarch and France had not acknowledged the system of the rule of hereditary monarchy. (Plekhanov: *The Role of the Individual in History* [Arabic transl.] , p.68).

This is quite true. Had Louis not been a monarch, his magnitude would have been negligible in the accounting of history. But we say from the other side; Had Louis been a monarch enjoying inflexibly strong personality and resolute will, the historical role which he played would have been certainly different and consequently the military and political events in France would have been different. Then what was that factor which deprived him of the strength of personality and denied him of resolute will? Was it the Royal system of government or the physical factors which had a share in his physiological constitution and his particular formation?

In other words, there are three suppositions possible; any one of which would have been found in France, a presidential political authority, a monarchical authority with a weak willed ruler and a monarchical authority with an iron willed ruler.

Each one of these three suppositions has it particular effect on the course of the political and military events, and consequently in the formation of France at a particular interval of time. Let us elucidate the signification of the laws of history which Marxism has disclosed and on the basis of which it has explained history in terms of economic factor.

These laws point to the fact that the economic formation did not permit the establishment of the presidential authority in France, rather it imposes a monarchical form of government. Let us take it for granted as true. So it is not but only one side of the question because we are able to eliminate from it the first supposition, but the two other suppositions remain intact. Then is there any scientific law which makes inevitable the existence of a weak willed or strong willed ruler at that particular interval of the history of France, except the scientific laws of the physics of physiology and of psychology which explain the personality and the particular temperament of Louis??

Thus, we learn that individuals have their roles in history which are determined for them by the natural and psychological factors and not by the forces of production ruling in the society.

These historical roles which individuals play in accordance with their particular formation are not always secondary roles in the process of history as claimed by the great Marxist writer, Plekhanov when he asserts:

> The personal qualities of leading people determine the individual features of historical events and the accidental factors (elements) ... and plays some role in the course of these events the trends of which are determined in the end (last analysis) by the so-called general laws, that is, by the development of the productive forces and their relations between men . .. *(The Role of the Individual in History*, p.93).

We do not want to comment on this assertion made by Plekhanov, except to cite a single instance in the light of which we can understand. How the role played by an individual can become the cause of decisively turning the course of the direction of history? What would have been the fate of the direction of the world history had the atomist scientist of Nazi Germany been a few months ahead in discovering the secret of the atom? Had not Hitler's coming into possession of this secret been a guarantee for

the change of the direction of history and collapse of capitalist democracy and Marxist socialism in Europe? Then why was Hitler not able to come into possession of this secret? Naturally it was not so because of the economic formation and the kind of the productive forces; It was so because scientific thought was not able to discover at that moment, the secret which was uncovered only a few months later, in conformity with physiological and psychological conditions.

Or rather what would possibly have happened, had not the Russian scientists achieved the secret of the atom? Was it not a possibility that the capitalist camp would have made use of the power of the atom at that moment in annihilation of socialist governments? In what terms would we explain Russian scientists discovery of the secret (of the atom) which saved the world of socialism from destruction?! We cannot say it was the productive forces which lifted the curtain from this secret. If so then why was it that only a few persons among a large number of scientists who were pursuing the atomic experiment, were able to dawn upon it?! This explains clearly that the discovery was indebted in a certain way, to the particular physiological structure and its mental conditions. Had these conditions been not realized in the person of one or a few scientists in Russia and a particular scientific talent consolidated, due to this structure and by those conditions socialism would have been stricken by destruction and routing in despite of all of laws of historical materialism.

And if it is possible to find moments in the human life which determine the issue of history or the nature of social events then how can it be taken that it is the laws of productive means which are the inevitable laws of history?!

5- AESTHETIC TASTE AND MARXISM

Man's aesthetic taste — as a social phenomenal expression

in which all societies share according to difference between them as to their system, relations and productive means — is another category of social truths which disturb historical materialism as we shall see.

The discourse on the aesthetic art has various sides. When an artist paints an admirable portrait of a great political leader or depicts an exquisite picture of the scene of a battle campaign, we may ask on one time about the method which the artist followed in painting the picture and the nature of the means and materials employed by him and on the second time, we may ask about his motive behind painting of this picture and on the third time, we may ask why do we admire it, why our feelings are filled with admiration of it and why we enjoy the seeing of it?

Marxism can answer the 'first question by saying that the method which the artist followed during the process of his painting was the method which the degree of the development of the means of production and the productive forces prescribed for him; so it is the natural means which fix the method of painting.

Likewise, Marxism can answer the second question by assuming that art is always employed in the service of the ruling class. Thus the motive which invites artists to artistic invention and artifices is to strengthen this class and its interest and as this class is begotten of the productive forces so the means of production is the last answer to this other question.

But what will Marxism do with the third question? Why do we admire and enjoy a picture?? Was it the productive forces or class interest which generated this admiration in our hearts or does this aesthetic taste, or is it internal consciousness which emanate from the depth of the heart and does not proceed from the means of productions and their class-conditions?

Historical materialism obliges Marxism to explain aesthetic taste in terms of the forces of production and the class-interest,

for according to historical materialism it is the economic factor which explains all the social phenomenon. But it will not be able to do that even if it tried, for if it were the productive forces and the class interest which create this artistic taste, it would have declined with their decline, and the artistic taste would have developed following the development of the means of production, in the same way as all the manifestations and the social relations. But the fact is that in spite of the development of the means of production and the social relations the ancient art with its exquisite marvels had not ceased even to this day in the human view to be the source of aesthetic pleasure of the beauty and continues to fascinate and fill their heart with delight even in this atomic age as it has done for thousand of years ago. Then how was it that this spiritual delight has continued so that it has caused the men of capitalism and socialism to enjoy the art of the slave society as the lords and the slaves were enjoying it?! And by which potent faculty that had the power to free the artistic taste from the fetters of historical materialism and eternalize it in the mind of man?! Is it not the original human element which is the only explanation that answers this question?!

Here Marx tries to bring about reconciliation between the laws of historical materialism and the admiration for the ancient art by claiming:

> Modern man enjoys with admiration of the ancient art as representing the infancy of the human species in the same way as it gives pleasure to all men to review the accounts of his early childhood pure and free from entanglements.(Karl Marx, p.243).

But Marx does not say anything about the delights of men at the accounts of their childhood as to whether they were due to a tendency of man's original disposition or a manifestation subject to the economic factor and changeable with its change!!

Then why is it that modern man finds pleasure and

fascination in admirable pieces of Greek arts, for instance, while does not find such pleasure and such fascination in the accounts of other phenomena of their life, such as their thoughts, their habits and their early customs when all these too represent the infancy of the homo sapiens?!

And what does Marxism say about those pure natural scenes which from the remotest period of history and still are capable of satisfying man's aesthetic sense and of sending transport of delight to his soul?! Why do we find pleasure in these scenes as just as do the masters and slaves, feudalists and the serfs, in despite of the fact that they do not represent anything of the infancy of the homo sapiens; the basis of which Marx explains our admiration of the ancient art!

Do we not learn from this that the question is not a question of our admiration of the pictures of childhood but is a question of the original general aesthetic taste which makes man of the slave-age and the man of the age of freedom, having the same internal consciousness of it!!

And at the conclusion of our this study of the theory as to its general essence, may we not find it natural that Engels, the second founder of the historical materialism, expressing regret as to his having exaggerated the role of the economic factor, and to acknowledge that he, with his friend Marx, had both been at fault in defending the essence of their doctrine in respect of their conception of the historical materialism? For Engels in his letter (1890) to Joseph Bloch wrote:

> Marx and I are ourselves partly to blame for the fact that the younger authors sometimes lay more stress on the economic side than is due to it. We had to emphasise the main principles vis-à-vis our adversaries who denied it. And we had not always the time, the place or the opportunity to give their due to the other elements involved in the interaction. (Engels: *The Socialist Interpretation of History*, p.116).

IV- THE THEORY WITH ITS DETAILS

When we undertake the study and close investigation of the details of the theory, we should begin with the first stage of the journey of history — primitive communism in the opinion of Marxism; since according to Marxist belief, humanity has passed through a stage of primitive communism at the dawn of its social life. This stage was carrying in its folds its antithesis in accordance with the laws of dialectics. After a long struggle it grew and became violent to such a degree that the communist system of the society and the antithesis emerged triumphant in a new garb, the slavery system and the serfdom society in the place of the communal system and the equalitarian society.

WAS THERE A COMMUNIST SOCIETY?

Before we fully grasp the details of this stage the basic question obstructs the investigation; what is a scientific evidence as to whether humanity has actually passed through a stage of primitive communism? Or rather how to obtain this scientific evidence, while we are speaking about humanity before the ages of transmitted history? Marxism has endeavoured to overcome this difficulty and to offer a scientific evidence according to the

soundness of its understanding of that obscure phase of the human social life by resting its case on the observation of a number of contemporary societies which Marxism has judged as primitive, and which it has considered as a scientific material of investigation for what was the pre-historic age as representative of the social infancy and expressive of the very self-some primitive condition through which human societies have generally passed. Since Marxist knowledge about these contemporary primitive societies confirms corroboratively that primitive communism is the ruling condition there, so it must be the first (primary) stage of all the primitive societies in the dark ages of history. As a result of that it appeared to Marxism to have come into possession of the tangible maternal evidence.

But we should know fact – before everything – that Marxism did not receive its information about these contemporary primitive societies directly but obtained them through individuals who chanced to go to these societies, and to become acquainted with their characteristics. Not this only but also it took in to account only such information as agreed with its general theory and accused every information which conflicted with it of distortion and falsification. Thus Marxist investigation tended towards selection of information favourable to the theory and arbitration to the theory itself in the consideration of the value of the information and reports about those societies, instead of the information arbitrament of the theory and the examination of the theory in the light of them. In this convection we may lend ear to the great Marxist writer saying:

> And howsoever deep we may penetrate into the past we find men was living in societies. And what make the study of these ancient societies easy, is that the existence of these primitive social systems wherein the same primitive condition even to this day prevail; like most of the tribes in Africa, Polynesia Malinisa Australia, American Indians

> before the discovery of the continent, Eskimos, Lagoons, etc... . and most of the many information which have reached us about these aboriginal societies are presented to us by the men of missionary expeditions who have distorted the facts intentionally or unintentionally. *(The Fundamental Principals of Capitalist Economy, p.10).*

Let us admit that the information upon which Marxism relies are the only authentic ones, then it will be our right to ask about these societies; Are they primitive on which we may rely upon about the picture of the social primitiveness? In relation to this new question, Marxism does not possess a single evidence of the primitiveness of these contemporary societies in the scientific sense of the word. On the contrary the law of the inevitable of the evolution of history, in which Marxism believes, demands that the process of the social evolution decisively prevails in these societies. Therefore when Marxism claims that the actual condition of these societies is their primitive condition, then it nullifies the laws of evolution and establishes inertia through passage of thousands of years.

HOW WE INTERPRET PRIMITIVE COMMUNISM

We will leave this to see how Marxism explains the so called stage of communism in accordance with the laws of historical materialism.

Marxism explains relations of communist property in the primitive society of human beings by the primitive stage on which the forces of production were at that time and the prevailing conditions of production. Human beings were obliged to pursue production a jointly social form and unblock (in group) to face the nature, due to man's weakness and paucity of means. Cooperation in production necessitates the establishment of communal property and forbids the thought of private ownership.

Therefore, the property will be a communal property because the production is communal production; and the distribution among individuals would also be on the basis of equality because of the conditions of the production. For the severe low level of the forces of production rendered distribution of meagre food and simple commodities in equal portion obligatory. Establishment of any other mode of distribution was impossible, because anyone of the individuals acquiring a share exceeding the share of other individuals would lead to the later person's starving. *(Evolution of Private Property,* p.14).

In this manner Marxism explains the communism of the primitive society and interpret the causes of equality therein prevailing about which Morgan speaks in connection with the description of the primitive tribes which he witnessed living in the plains of North American and saw them distributing animal flesh in equal portions allotted to every individual of the tribe.

Marxism says this, while at the very time it is contradicting, when it talks about the morals dispositions of the communist society and glorifies its virtues. It cites on the authority of James Andererz, who studied American Indians in the last century; that these primitive groups regarded not rendering assistance to one who needed it as a great crime and regarded with scorn and contempt the perpetrator of it. He cites on the authority of Catalin that every individual of an Indian village (settlement be he man, woman or child) has the right to enter any dwelling and eat if he is hungry; nay those who were disabled for work or whom sheer laziness from hunting were able, in spite of that to enter any house they want and share food with its inmates. Thereby an individual obtained food in these societies, no matter how much he eluded his obligations as regards to the production of this food and nothing may result by his desertion except his own feeling towards a remarkable losing of his dignity. *(Evolution of Private Property,* p.18).

These knowledges which Marxism presents to us about the morals of primitive communist societies and their socially adhered customs, and clarifies that the level of productive forces was not low to a degree which would mean the exceeding any one individual's share from product would result in the starving of another individual; but existed in abundance from which the decrepit and the helpless and others would obtain something. In such a case, why an equal distribution was the only possible mode?! Or how did not occur to anyone the idea of exploitation and of fraudulence to distribution in respect of product so long as there was abundance making possible exploitation? ! If the forces of production permitted exploitation in these societies we should find the reason for non-appearance of it, titled to the degree of consciousness of the primitive man and his practical idea. Indeed, the idea of the exploitation come to him as a belated manifestation of this consciousness and practical idea and as a product of his progress and the increase of human familiarity with life.

However, if it were possible for Marxism to say — or was it possible for us to say from our point of view — that the mode of equal distribution came in the beginning, following from scarcity of product then it took root and became a habit, would we find therein a reasonable explanation of the attribute of the primitive society as regard the idle individuals who were giving up work intentionally and voluntarily, yet fading their sufficiency out of the production of others without being threatened with danger of hunger and deprivation? ! Does social participation in the process of production impose the distribution of the product to the non-participants in the production too?! If the primitives were intent, in the beginning upon the mode of equal distribution lest anyone dying of hunger they would thereby loose a helper vis-à-vis the operation of social production, then why did they endeavour to support the idlers by those loss they lose nothing?!

WHAT IS THE ANTITHESIS OF (THE PRIMITIVE) COMMUNIST SOCIETY?

Indeed, the primitive communist society was, in the opinion of Marxism concealing in its bowels a conflict ever since it was born. This conflict began to grow and became stronger till it exterminated this society. It was not a class conflict because primitive society was a single class and there did not exist two classes in conflict with each other. It was only a conflict between the communist relations of property and the forces of production when they began to grow to the degree that communist relations became a hindrance and an impediment to their progress and with that production will be in need of new relations in which its growth continues.

But how and why the communist relations become a hindrance and an impediment for the forces of production to their growth? This is what Marxism explains it. The evolution of the forces of production put within power of an individual to succeed from his work of raising of livestock and crop, in obtaining means of livelihood in excess of what he needs for the preservation of his life. Thereby the individual was able to meet his requirement by labour of a limited portion of time for the nourishment of himself without spending all his operational energy. It was therefore, new social force, inevitable to create in order to mobilize all practical aptitudes for the benefit of production, as the productive forces would necessitate for their development and growth a new social force, which would con-strain the producers to spend all their aptitudes; and since in the communistic relations this aptitude is not found it became necessary to replace these relations by the slavery system which would enable the lords to course the slave uninterrupted labour. Thus the slave order sprang up.

Indeed, the slavery system began, at the start, by the

enslavement of war prisoners which the tribe used to gain from its forays (raids). Formerly, they were accustomed to kill them because they had not found advantage in preserving and feeding of them. After the evolution of production their preservation and enslavement was to the interest of the tribe for what they produced was more than what they consumed. In this way the prisoners of war were converted into slaves; And as a result of the wealth of those who employ slaves, these rich people began to enslave even the members of their own tribe. Thus the society was broken up into the class of masters and class of slaves. The production was able to continue its evolution through this class division, due to the new slave order.

If we examine this closely, we would be able to see clearly through the Marxist explanation itself, that the matter is a matter of man before it is a matter of the means of production, because the increase of the productive forces demanded only more human labour, and the social character of labour has no relation with its increase, for just as the abundant slave labour increases production, so, does the abundant free labour. Therefore, if the individuals of the society, collectively decided upon multiplying their efforts in production and upon distribution of the product equally, they would have ensured thereby the growth of the productive forces which was achieved by the slave society, rather the production would have surely increased quantitatively and typically more than it would have grown by the pursuit of the slaves, because the slave labours disheartinedly and does not try to think or acquire experience for the sake of improving production, in contrast to the freemen, who are solidary in working.

By then the growing of productive forces was not conditioned on the slavery character of labour. Therefore why did the social man multiply the labour by the method of conversion half of the society into slaves, and did not realise it by the method of free mutual agreement – between all – towards

multiplying labour?! We will not find answer to this question except from the man himself and from his physical tendencies. The man is, by nature, favourably disposed to economise in labour and to follow the easiest way to his goal. As soon he faces two ways to achieve one aim, he will surely choose the less difficult. This original trend of a man is not a result of the means of production, but is a product of his own physical composition. That is why this trend remained constant in despite the evolution of production through thousands of years, as well it is not a product of the society; but the formation of the society was due to this natural tendency of human being as he noticed that the formation of blocs is the least way in difficult to resist against the nature and to exploit it.

This physical trend is the one which inspired to man the thought of enslaving others as a method offering better guarantee and less charging for his leisure.

Therefore, the force of production was neither the one created for a social man the slavery system, nor did it push him into it. But it arranged for him the adequate circumstances to go in accordance with his natural trend. This case is similar to some-one giving a sword to a person who by relieving his resentment kills his enemy with it. Thereby we cannot interpret this killing incident by only the basis of the sabre, but we do it (before that) in the light of the personal feelings which preoccupy the heart of the killer; for offering the sword did not push him to perpetration of the crime had it not been those feelings which introverted him to the crime.

In this respect, we see that Marxism assumes a silence towards another reason which would have naturally had its great effect in annihilation of the communism and in evaluation of the society into masters and slaves. That is what the communism tended to recline the great number of the individuals of the society to the equanimity, laziness and abstention from contin-

uation and expansion of production; so that Losskyl wrote about some Indian tribes (in America) (they are so lazy that they do not cultivate anything by themselves, rather they totally depend on the expectation that other person will never refuse to share with him in his product. Since by them the active was not more enjoying the profit of the fruits of his work, than does the sluggish, their production was diminishing every year).

Marxism, then does not mention these complication of the primitive communism, as elements towards its failure and disappearance from the scene of history and towards undertaking by the energetic individuals of enslaving the lazy ones and employing them by force in the fields of production.

This is perfectly an understood position of Marxism; for they do not recognise the complete idleness and inactivity which resulted from communism. Because this asides us to comprehend the original disease of Marxism which makes it unfit to the human being, in accordance with his special psychological and physiological constitution which is found in his frame since the dawn of life. This also demonstrates the communism is not suitable to the human nature. And accordingly it proves that all similar complications happened during the recent revolution in Russia in trying to fully applying the communism, was not a result of class thoughts and a dominating capitalist mental in the society — as the Marxists claim — but it was an expression of the human reality, his self motives and feelings which were created with him before the begetting of class, its contradictions and thoughts.

THE SLAVERY SOCIETY

The second stage of historical materialism begins with the changing of society from primitive communism to slavery order. By its start, the class is begotten in the society, and the con-

tradiction raises between the class of masters and the class of slaves; a matter which threw the society into the oven of class struggle for the first time in history. This struggle is still existing up today with different forms, following the nature of productive forces and their requirements.

We must here raise the question in the immediate presence of Marxism about this partitioning division of the life of humanity which divided into two classes, masters and slaves, and how therein those ones were not with mastery and those (other) ones were fated to slavery and bondage, and why did not masters pledge to part of slaves and slaves the part of masters.

Marxist reply to this question is ready, it states that both of the masters and slave represent an inevitable role which the economic factor and the logic of production imposes because the class which represents the role of masters in the society, was relatively on a higher load of wealth, and was possessing, on account of this, of binding others by it in band of band and. slavery and bondage but the enigma (mystery) remains in spite of this reply — remains as it was, unchanged because we know that these relatively (comparatively) inflated localities did not fall to these masters as a boll from the blue. Then how those ones acquired them without the others acquiring those while and were able to impose their mastery over others not withstanding all living in one communal society.

Marxism replies to this fresh question by two things:

One of them is, the individuals who were pursuing function of the leaders, senior war officers and the priests, in a primitive communist society took to exploiting their position in order to obtain wealth and to acquire a portion of public (common) property and began to secede gradually slowly from the members of their societies to be formed into aristocracy while the members of the society began to suffer slowly devolution under their economic dependence. *(Evolution of Individual Property,* p.32).

The second that thing which helped towards the creation of difference and inconsistency in regard to the level of production and wealth among the individuals of the society; that the society converted the prisoners of war into slaves and began to gain on account of it surplus product (product more than their necessary wants, till it became rich and was able, as a result of its wealth, to enslave those members of the tribe, who were stupped of their possessions *(amwãl)* and had become debtors *(ibid.,* p.33).

Both these things do not agree with the view point of the historical materialism. The first, because it leads to regarding political factor as a main and the economic factor as a minor factor arising from it because it assumes that it was the political position which the leaders, priest and the chiefs enjoy in the class-less communist society, that opened its way path to enrichment and the creation of private property. Therefore the phenomenon of classifications was a product of political nature, not the reverse as the historical materialism declares. As for the second cause by which Marxism has explained the difference of wealth, well, it only advances one step towards the solution of the problem in view of the fact it regards the masters' taking as slaves the sons of the tribe is anteceded by masters enslavement of the prisoners of war and their enrichment on account of these war-prisoners. But why those masters were provided with the opportunity of the enslavement of the war-prisoners was provided to them of all the members without providing of it to any other member then there Marxism will not try to give explanation of this because it will not find its explanation according to forces of production but his explanation may be a humanly explanation of it which could be given on the basis of diverse differentials and competencies bodily, intellectual and military, which man occasions. They differ in the shares of them in accordance with their psychological physiological, physical circumstances and conditions.

THE FEUDAL SOCIETY

The feudal society arose after that as a result of the contradictions which were acting upon (governing) the slave society and on the basis of these contradiction, the rivalry between the relations of social order (system) and the growth of productive forces, since these relations, after a long intervals of time in the life of the slave society became an impediment to the growth of production and obstacle in its path from two directions:

One that it opened before the masters as productive force a scope for the brutal exploitation of the slaves on account of this thousands of slaves collapsed in the field of actively — a matter which cost a great loss of productive force presenting itself in the form of these slaves.

The other: These relations converted gradually a majority of the independent farmers and independent craftsman into slaves. Therefore the society lost — on account of that — armed forces and soldiers of freemen through whose continuous and successive raids the society used to obtain an uninterrupted flow of productive slaves. Thus the slave order (system) resulted within the designation internal productive forces and in the in-ability of the procurative (importation) of fresh productive forces via road captivation. Because of that a violent conflict arose between it and the forces of production, the slave society collapsed (was demolished) and the feudal order succeeded (replaced) it.

In this presentation Marxism ignored a several essential points pertaining to the subject matter.

Firstly: the transformation of the Roman society from slave order to feudal order was not a revolutionary transformation busting forth from the class of the ruled as is assumed by the dialectical logic of the historical materialism.

Secondly: that not any evolution whatever the productive forces had preceded social and economic transformation as

requires the Marxist assumption establish on the basis of it that it is the means (modes) of production the supreme motive force of history.

Thirdly: that the economic formation which is the basis, is the opinion of Marxism, of the social formations was not, in its historical change, expressive of integrative phase (unifying to form a complete whole) of its history but is effected by its decadence (relapse) contrary to the concepts of the historical materialism which asserts that history always marches forward (advance forward) in all of its situation and that the economic formation is the vanguard of this constant (eternal) march advancement. We treat these three points in details.

A — The Transformation was not Revolutionary:

The transformation (conversion) of the Roman society, for instance, from slave owning system to feudal system was not the result of a class revolution at one of the partitioning moments of history in spite of the fact revolution is the inevitable laws of historical materialism for all the social changes (transformations) in accordance to the dialectical law (the law of the jumps of evolution) which holds that gradual quantitative changes are transformed all at once into qualitative change. In this way was rendered in-operative this dialectical law and did not effect the transformation of the slave owning society into feudal society in a periodical revolutionary shape immediately, the society was according to clarification of Marxism itself, transformed through the masters themselves since they took to emancipating a great portion of their slaves, dividing many land establishes into small portion and giving it to them after they felt that the slave owning system did not insure their interest. *(Evolution of Individual Property,* p.53).

Then, in that case it was the master class which in fact had transformed the society gradually into feudal system without needing any need of the law of class revolution or jumps of

evolution . . . The other external factor was the invasion of the Teutonic (Germanic) tribes, and the creation of feudalism, according to the admission of Marxism itself; and such phenomenon, in its turn, is inconsistent with those laws.

It is curious, that the revolutions which should, according to historical materialism, have erupted (burst out) at the moment of the partitioning change, we find in fact they had broken out centuries before the collapse of slave owning society like the (freedom) movement of the slaves in sports four centuries before Christ, in which thousands of slaves, collected near the city and tried to storm it. The (Spartam) leaders were compelled to seek military assistance (support) from their neighbours and were to repel the rebel slaves only after a number of years. Likewise the slave rising of slaves about seventy years B. C. in Romanian Empire in which were massed terms of thousands of slaves and had nearly put to end the existence of the empire. This uprising was preceded by a number of centuries of the rise of feudal society. It let it not find and intensify contradictions between (social) relations and forces of production but was deriving its facts from steadily increasing feeling of oppressions and massive military, leaderly, power which that feeling erupted in spite of the means of production which were in harmony with the slave owning system, so it is wrong to explain every revolution on the basis of a fixed (definite) evolution of production or as a social expression of a need of the productive forces.

Let us compare — after these between the frightful revolutions which the slaves had launched against the slave owning system, before leaving the field (to proceed) towards feudal system by a number of centuries and what Engels has written, holding:

> So long as any mode of production continues describing the ascending steps (curves) of development, it is received with enthusiasm and well-come even by those whose lot is made worse by the cause of its corresponding mode of distribu-

tion. (Engels: *Anti Dühring*, vol.II, p.9).

How would we explain these revolts of the slaves which proceeded the switch over the scription of feudalism by six centuries in the narrow frame of this theory as far as revolutions. If the dissatisfaction of the oppressed grows constantly as an expression of the lighting upon (stumble upon) the method of production and note an expression of their mental or real condition they multitude (crowds) of the slaves then why these multitudes of slaves were dissatisfied and expressed their dissatisfaction in revolutionary term which the Roman Empire almost thoroughly before lighting upon the modes of production, standing on the basis of slave-owning system and (that) several centuries before having a historical need for its evolution.

B- Social Transformation did not proceed any Renewal of the Forces of Production:

Obviously Marxism believes that the forms of social relations are subsidiary to (dependent upon) the forms of production. There-fore, every form of production calls for a particular form of social collective property and these relations cannot develop unless they are followed with the change of productive form and its forces.

> No social formation ever dies before the productive forces evolve which can make room for it. (Marx: *Philosophy of History*, [Arabic transl.] p.47).

While Marxism asserts this, we find the form of production in the slave-owning society and feudal society was one at the same time with each other, and the servile relations did not change into feudal relations as a result of any development or renovation of the dominant productive forces which had not transcended the scopes of hand forming and manual labour. This means that the social formation and servile formation may

have perhaps become extinct before the productive forces develop contrary to the above mentioned assertion of Marx.

Counter to this we find by the admission of Marxism itself that the number of productive forces has marked numerous forms and diverse grades of production during thousands of years without effecting any change in the social entity. The primitive man used to take help of the stones in their natural form for his productive activity then he resorted for help to stone implements. Thereafter he was able to discover fire and to make axe (hatchet) and lances and bayonets. Thereafter, the forces of production developed and the mining implements and bows and arrows made their appearance. Later on farming product emerged in the life of man and after that animal product. Indeed these great transformations of the modes of production were completed and formed on uninterrupted sequence of its developments, we have mentioned or with other sequences without their accompanying the social transformation and the changes of the common relations, by the admission of Marxism itself, since it believes the system dominant prevalent in primitive society in which all these changes (developments) took place was a primitive community society.

If, therefore, it may have been possible that the models of production change while the social form remains unchanged (firmly fixed) as in the primitive society, for instance; and if it have been that the former of the society change while the modes of production remains fixed (is unchanged) as we observed in the case of slave-owning and feudal society then what is that need that calls upon the affirmation that every social formation is correlated to a definite mode and particular phase of production. Why should we not attribute to Marxism (make it say) what it did say that the social system is only the product, the sum total, of the scientific practical ideas which man acquires during his social try out (experience) of the relations he shares in with others. Likewise the modes of production are the result of the

reflective and scientific ideas which man acquires during his natural experiment in regard of the forces of production and all of the forces of nature, since the natural experiments are relatively of short journey (they give their result in a relatively short interval of time) the modes of production evolve rapidly in contrast to the social experiments for it concerns the entire history of the society. Therefore the reflective and practical ideas do not grow during this slow try out with the same rapidity with which reflective and scientific ideas grow during the natural experiment try out. The case being such it is but natural that at the beginning the forms of the system will not evolve with the same rapidity the mode of production will evolve.

C- The Economic Situation had not Reached Perfection:

We have already previously mentioned that Marxism explains the decline of the slave-owning system by the fact that it has become an impediment to and incompatible with the growth of production, therefore it is necessary that the productive forces should remove it from its path and produce an economic mode which will participate with it as regards its growth and will not be incompatible with it. Is this rightly applicable to the historical matter of fact?

Were the feudal conditions and circumstances of the society slower of pace for the growth of production than the conditions and circumstances before that. And did the mode of production move along with the human Caravan – on the ascending line, as the movement of history requires it according to Marxists, who make it understand as a process of continuous unification of the whole of the historical content in accordance with the economic situation and growth?

Nothing of this thing took place in the supposed Marxism manner. For the realization of that it will be sufficient to cast a

look at the economic life the Roman Empire was living. It had reached — particularly a stated part of it — a high economic level and commercial capitalism had made a great advancement, and obviously commercial capitalism is an advanced economic form. When the Roman Empire practised this form as history indicates-it had attained to a relatively high stage of its economic structure and moved much away greatly from all kinds of primitive closed economics (home economics). As a result of it, it had spread to many of the states which were contemporaries of the Roman, due to the construction and safety of the roads, the safety of them and the production of the navigation, nothing to say of the internal trade which flourished all over the parts of the Roman Empire, between Italy and the provinces and between one province with the other. Even the earthen wares of Italy. They overran the worlds' market from Britain on the north to the shores of the Black Sea in the East and the safety-pins (Aukisa [?]) with which it was distinguished; and the lamps which the Italians produced in terrific quantities were found in every parts of the Empire.

The question which faces us in the light of these facts is, why did not the economic modes and commercial capitalism preserve in their course of growth and of their integration, so long as the integrative movement was an inevitable law of the economic and productive modes and why did not the commercial capitalism evolves into industrial capitalism as happened in the middle of the eighteenth (18th) century, so long as the merchants had with them capital in abundance while the people who had multiplied misery and poverty (event), were ready for the reference to the demand of the industrial capitalism for compliance with its desire? This means that the material conditions of the high social form were present. Therefore, if the material conditions were alone sufficient by themselves for the evolution of the tangible social fact, and if

the forces of production during the course of their evolution always the shape of the modes which begin get going and within it and grow capitalism would have risen necessarily in the ancient history and would have fulfilled their requirement. Truly it would be logical that the industrial capitalism and its results which it had produced, should have emerged during the end part of the feudal era like the distribution of labour which lead to the emergence of the tools (machinery) during the industrial life.

The historical fact does not prove of the disappearance of it and the disconnection of the capitalism due to its growth, but also reveals clearly that the establishment of the feudal system (order) did away with the commercial capitalism, and finally throttled it to death in its cradle. Since it settled for every feudalism its particular limits and its closed economy established on the basis of its contentment with its agricultural revenues and its simple products. Therefore, it is but natural that commercial activity may fade out and commercial capitalism disappear and the poverty come back to semi-primitive economy like domestic economics.

Therefore was this economic situation with which the Roman society after the entrance of the Teutons, an explanation as regards historical growth and its lagging as regards the demand of production or a relapse foreign to historical material-ism, or an obstacle in path of material growth and the flourishing of economic life??!!

LASTLY THE CAPITALIST SOCIETY WAS FOUND

At last, the feudal society began to pass away, after it became a historical issue and an obstacle in the way of production, which necessitating a decisive solution, historical conditions had abraded mould the shape of this solution inclining to capitalism which had made its appearance on the social stage

to meet face to face the feudal system, as an historical antithesis of it, which grew under its shelter, so that when it completed its growth, it put an end to it, and won the battlefield . . . Marx describes us the growth of capitalist society in this way by saying:

> The capitalist economic system has come out bowels of the feudalist economic system, and the disintegration (dissolution) of one of them leads to the emanation of the formative component of neat. (Karl Marx, sec.2, vol.iii, p.1053).

Since Marx starts analysing Capitalism historically, he attaches great importance to analyse what he calls `Primary accumulation of capital'. This indeed is the first of the substantial points regarded essential for analysing the historical existence of Capital-ism. A new class having come into being in the society, on the crumbling down of the feudalism possessing capital and being able to hirelings in order to develop them, we must suppose special factors which led to a big accumulation of wealth in respect of the fortunes of a particular class and gathering of huge labour force which enabled that class to turn wealth into capitals and turn that labour force into paid hired servant who could carry on the operations of capital production on salary basis. So what are those factors and causes which afforded such a fortunate condition for that class, or to put it more appropriately wherein is the secret of the primary accumulation of capital on which was based the capitalist class vis-à-vis the class of hirelings?

While trying to analyse this point, Marx started with reviewing the conventional view point about political economy which says: The factor which enabled one particular class of society exclusively to obtain political conditions for capital production and the necessary wealth for the same, this class was characterised by the intelligence, frugality and good management and made it save something from its income, bit by bit, and treasure up the same gradually until it was able to secure a capital.

Marx has subjected this classical viewpoint to pungent ridi-

cule and great disparagement, as is usual with him in dealing with views he might be opposed to. Having ridiculed it, he remarks that treasuring only cannot account for the existence of capitalism. To find out the secret of the primary capital accumulation, on which was based the new class, we must examine the significance of the capitalist system itself and search in its depths, for the complicated secret.

Here Marx has recourse to his unique talent of expression and full command over words in order to apt up his point of view. He says: The capitalist system brings out to us a special kind of relationship between the capitalist who has means of production and the hireling who relinquishes, as the result of that relationship all proprietary rights to his production, only because he possesses nothing but a limited working power while the capitalist has all the necessary exterior provisions, material, implements and cost of living to incarnate that power. The position of the hireling in the capitalist system is therefore the result of his being devoid of and dissociated from the means of production which the capitalist enjoys. It means that the basis of capitalism is radical separation between the means of production and the hireling in spite of the fact that it is he who is the producer and who manages those means. So this separation is the essential condition historically, for the coming into existence of the capitalistic relations. There-fore, to bring about the capitalist system it is necessary, in-disputably to actually seize the means of production from the producers — those producers who utilised them to carry out their particular work and these means of production must be confined to the hands of the capitalist traders. The historical movement which realises the separation between the producer and the means of production, confining these means to the hands of the traders is, therefore, the key to the secret of the primary capital accumulation. This historical movement was completed by means of enslavement, armed robbery, pillage and different forms of

violence, there being no hand in its realisation of planning, economy, intelligence and prudence as believed by authorities of the conventional political economy[1]

We have a right to ask the question: Did Marx succeed in this explanation of his of the first accumulation which was the basis of the capitalist system? But before we answer this question we must know that while putting forward this explanation, Marx did not aim at condemning capitalism morally because it was based on extortion and pillage, although sometimes it appears that he was trying to do something like that. Because Marx regards capitalism, in the circumstance of its coming into being, as a movement forward which helped in leading man, through the historical winding, to the higher stage of human development. Thus, in his opinion, it agrees, in that circumstance, with moral values as according to him moral values are but an offspring of economic circumstances, needed by the means of production. As the production forces demanded the establishment of the capitalist system, it was but natural that the moral values be conditioned in that historical stage, in accordance with their demands.[2]

So it is not an aim of Marx — nor is it his right to aim, on the basis of his peculiar concepts at passing judgment on capitalism from the moral point of view. In his study of capitalism, he only aims at applying the historical materialism to the course of the historical development and analysing the events in accordance therewith. So, how far he has succeeded in this regard?

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1. Vide, *Capital,* vol.iii, sec. 3, pp.1050-55.

2. Engels said: "While bringing out the evil aspects of the capital production, establishes with equal clarity that this social form was a necessity so that the powers of production may gradually uplift the society to a level in which human values of all the members could develop equally." *Capital,* Appendixes p.1168.

In this connection, we may first of all note the success achieved by Marx and the perfection he won by dint of intelligence and the skill in the masterly use of words. This was because he noted, while analysing the capitalist system, that this system comprised in its depths a particular relationship between a capitalist possessing means of production and a hireling who has nothing thereof and therefore forges his production in favour of the capitalist. He concluded from this that the capitalist system depends on the absence of productive powers in the working groups, which are capable of carrying out production and their (production-powers) being limited to the traders so that these groups may be obliged to work with them on wages. This fact is considered as being clear beyond any doubt. But Marx was in need of wordy jugglery so that he may through this fact, reach his goal. That is why he changed his expression and turned from the statement of his and laid emphasis on that the secret of the primary accumulation lies in isolating means of production from the producers, stripping them thereof by force and possession by the traders of these means exclusively. Like this began this great thinker, as though he did not realise the significant difference between the premises he had propounded and the conclusion he ultimately emphasised. Because those premises meant that the absence of the means of production with the groups of people who are capable of working and possession thereof by the traders constitute the basic condition for the existence of capitalism. And this is different from the conclusion which he reached finally and which explained the non-existence of the means of production with the hirelings as their being deprived of the same and wresting thereof from them. This deprivation and wresting is, therefore, a totally new addition not comprised in the analytic premises put forth by him, and which cannot be derived logically from the analysis of the substance of the capitalist system and the relations between the proprietor and the hireling as defined

therein.

Commenting on our statement Marxism may say: True, the capitalist system depends only on non-existence of means of production with the workers and their abundance with the traders but how do we explain that? And how is it that the means of production were not found with the workers, while they were found with the traders, if no movement took place to deprive the workers of their means of production and usurp the same to the credit of the traders?!

Our reply to this statement can be summed up as under:

Firstly, this description does not apply to the societies in which capitalism rested on the shoulders of the feudalist class, as happened in Germany for instance, where a large number of feudalists built factories, carried on their administration and financed them with feudal income they received. It was, therefore not necessary that the change may take place from feudalism to capitalism, following a movement of a fresh usurpation, so long as it was possible for the feudalists themselves to carry out the capital production on the basis of the feudal riches they had acquired in the beginning of the feudal history.

Just as the Marxian description does not apply to the industrial capitalism which grew on the shoulders of the feudal class, it is also not applicable to the commercial capitalism which was constituted with the commercial profits as happened in the Italian Commercial Democracies like Venice and Genoa and Florence etc. Because a class of traders came into being in these cities before the creation of the hirelings of industry that is before the capitalist system came into being, in its industrial sense, for the roots of which Marx is searching. So the industrialists used to work for their own account while those traders purchased from them their production to trade with and thereby earned huge profits by means of trading with the East which flourished following the crusades. Their commercial centre achieved

more and more success enabling them to monopolise trade with the East by dint of understanding with the sovereigns of the States, Rulers of Egypt and Syria as the result of which their profits increased whereby they were able to throw off the yoke of feudalism and consequently to set up large factories which swept off, through competition, small handicrafts. On this was, thus, based the capital-production or the industrial capitalism.

Secondly, the Marxian view point is not sufficient to solve the problem because it does not go beyond saying that it was the historical movement which stripped the producing workers of their means and confined them to the hands of the traders, that created the primary accumulation capital, but it does not explains to us as to how it was that a particular group could acquire power of subjugation and committing violence and of forcibly depriving the producers of the means of their production.

Thirdly, suppose that this power of subjugation and committing violence does not need explanation however it does not suit to be a Marxian tool for explaining the primary capital-accumulation and therefore the entire capitalist system, because it is not an economic explanation, and therefore it is not compatible with the substance of the historical materialism. How could Marx himself or his general concept of the history let him say that the reason behind the primary capital-accumulation and the existence of the capitalist class historically was the power of usurpation and subjugation whereas it is itself a reason not economic by nature? As a matter of fact by this analysis Marx demolishes his historical logic himself and admits implicitly that the class-formation does not exist on economic basis above.

It was proper for him, according to the principles of the historical materialism, to adopt the conventional viewpoint, in explaining the appearance of the capitalist class despite the fact that it presents an explanation more akin to the economic nature than the Marxian explanation.

Lastly all the historical evidences, which Marx gives us thereafter in the chapter of his book, on the movement of usurpation and deprivation, to explain the primary capital accumulation, have been taken only from the history of England, and which depict the usurpations made by the feudalists in England. Because they deprived the farmers of their lands and turned them into pastures throwing the banished persons into the young bourgeoisie markets. It was therefore an operation of depriving the farmer of his land to the credit of the feudalist, rather than a movement of stripping the industrialist of means of production to the benefit of traders.

Before going beyond this point, we would like to cast a passing glance on tens of pages of the book "Capital" which Marx has filled with the description of those violent operation in which the feudalists deprived the farmers of their lands thereby paving the way for the establishment of the capitalist system.

In his exciting description Marx confines himself to the events that took place in England particularly, and while reviewing these events he explains that the real factor which led the feudalists to resort to different forms of violence in driving away the farmers from their lands was that they wanted to transform their forms into pastures for the animals and therefore they were no longer in need of this large army of farmers. But why, in this way and so suddenly, did this general trend take birth, to transform the farms into pastures? Answering this question Marx says:

> What particularly opened up the opportunity in England for violent actions was the flourishing of wool factories in Flanders and the resultant rising prices of wool.[1]

This answer has its special historical significance, although Marx has not attached importance to it. Because he says that it

1, *Capital,* vol.iii, sec. 2, p.1059

was the flourishing of the industrial production in the industrial cities and in the southern part of Belgium particularly Flanders the currency of the capitalist trade in wool and other products generally and the appearance of big markets for those commercial commodities the English feudalists avail of this opportunity and turn their farms into pastures so that they might be able to export wool to the industrial cities and occupy the market for trading in wool, in view of the qualities of the English wool, which had made it of basic importance in the meaning of high quality woollen cloth.[1]

It is clear from the narration and study of these events that the factor which Marx regarded as being the historical proof for the coming into being of the capitalist society in England (driving out the farmers) did not emerge from the feudal system itself, as supposed by the disputant logic of the historical materialism. It was not, therefore, the feudal system which gave birth to the inconsistency which dealt a death blow to it, nor were the feudal relations responsible for bringing about the causative factor which Marx meant. It came into being only because of the flourishing of the factories of wool from outside and being in vogue of the capitalist trade in wool. Thus it was the commercial capitalism itself which made the feudalists throw most of the farmers into the markets of the city and not the feudal relations . . . and thus we see even in the picture presented to us by Marx himself that the causes and conditions of the antithesis of the social relations took birth outside those relations. They did not originate from those relations which could not possibly materialise those conditions had they been segregated from exterior factors.

Marx Confession:

Marx realised, therefore, that the primary accumulation of

1. *English History*, p.56.

the industrial capital cannot be explained on the basis of the operations of the usurpation of the feudal class. These operations only explain as tc how the Capitalist market found farmers who had been thrown off, by the countryside and consequently they migrated to the cities. That is why he has tried to deal with the problem afresh, in chapter 31 of the *'Capital.* So, in explaining the accumulation, he was not content with the circumstances of commercial or usurious Capitalism which led to the accumulation of huge riches with the traders and the usurers. Because he continues to insist on that the basis of the accumulation is extortion of means of production and the material conditions from the producers and that is why, he resorted to the following statement in explaining the capitalist accumulation:

> The discovery of the regions of gold and silver in America, turning the original inhabitants of the country to the life of bondage, their burial in the mines or their annihilation, the beginning of conquest and plundering of the East Indies and the changing of Africa into a sort of trade dens for catching the negroes, were all the innocent moving ways of bringing about the initial accumulation which broke the good news about the dawning of the capitalist period.[1]

Once again, we find Marx explaining the appearance of the capitalist society by power, through raiding, plundering and colonisation, although they are elements not Marxist in their nature because they do not express economic values. They only express political and military power.

Strangely enough, Marxism is inconsistent on this point, in pursuance of some suitable way to get rid of dilemma. Thus we find the first Marxist man, after having been obliged to explain the growth of the capitalist entity in the society by the factor of power, saying:

1. *Capital*, p.1116

> So power is the generator of every old society continuing in growth and power as an economic factor.[1]

By expanding concepts of situation, he wants to lend the economic factor an import not too narrow to comprehend all the factors on which he is obliged to rely in his analysis.

On the other side we read, another version of Marxism, is the books of Engels about the power factor, contrary to that about the capitalist developments he writes:

> This entire operation can be explained by purely economic factors, there being no need at all, in this explanation, of theft (power) (government or political interference) of any kind. The expression (proprietorship based on power) in this connection also proves nothing except that it is an expression which a misled person ruin mates to cover his lack of under-standing of the real course of affairs.[2]

While reading the Marx's inciting analytical description of the English capitalism and its historical existence, we do not find any justification to reject it or to object to it, because naturally we do not think of defending the black history recorded by Europe, in the early days of its tyrant materialist renaissance under the shadow of which capitalism grew. But the matter differs when we take his analysis of capitalism and its growth as an expression of the historical necessity without which the capitalist production in industry cannot, theoretically build up its edifice. Therefore, while starting from the real capitalist situation in which, for instance, England lived, Marx has every right to explain its increasing capitalistic riches, at the dawn of its modern history, by the mad colonial activities in which it committed different kinds of crimes on various parts of the earth and by the stripping of the industrialists of their means of production by forces. But

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1. *Capital,* sec.2, part III, chap.31, p.1119.
2. *Anti-Diihring,* vol.ii p.32

this does not prove, theoretically, that capitalism cannot possibly be found without those activities and operations and that it carries in its depths the historical necessity of these activities and this means that England had necessarily to witness these activities and operations in the beginning of the capitalism, even if it lived in a different ideological framework. But the history proves contrary to that. Because capitalist production took place in (Flanders) and Italy in the thirteenth century and there grew capitalistic organisations wherein thousands of hirelings produced commodities which raided world markets for the capitalist proprietors, yet during that period no such conditions appeared as existed in England in the fifteenth and sixteenth centuries, which Marx studied in his historical analysis of capitalism.

Let us take another example: The capitalistic production in Japan which began changing, in the nineteenth century, from feudal conditions to the industrialistic capitalism. We have selected this example particularly because Marx made a passing reference, in his statement, to it by saying:

Japan, by its purely feudal organisation in respect of owner-ship of the landed property and the small-scale agriculture there presents to us, in numerous aspects, a picture of midland European ages, more honest than that given by the history book we have and which are obsessed by contending bourgeois ideas.

Let us then examine this honest picture of feudalism as to how it changed into the industrial capitalism? And whether its change is compatible with the historical materialism and Marx explanations of the growth of the industrial capitalism?

Japan was immersed in feudal relations, when it awoke terrified by the alarm-bells warning her against a positive external danger. It was in the year 1853 when the American Fleet rushed

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1, *Capital*, sec.2, vol.iii, p.1058.

into the lake of Oraga and began to negotiate, with the military Governor who enjoyed the authority in place of the Emperor, about concluding agreements. Thus it became quite clear to Japan that it was a beginning of an economic raid which would lead to ruination and colonisation of the country. The thinkers there believed that the only way to save Japan was to industrialise it and put it on the path of capitalistic production which was earlier followed by Europe. They were able to employ leading feudalists themselves in order to materialise this idea. So the feudalists withdrew the authority from the military governor and restored it to the Emperor in the year 1868. The Imperial authority therefore mobilised all its potentials in order to bring about an industrial revolution in the country whereby it could rise to the ranks of the big capitalist states. The people belonging to the aristocratic feudalist class volunteered their services to the ruling authority enabling it to change the country into an industrial one expeditiously. In the meanwhile, a section of the industrialists and traders grew rapidly, who were previously placed in the lowest position in the society. Therefore, they began to utilise, quietly whatever wealth, power and influence they had got, in order to smash the feudal system peacefully. So much so that the prominent feudalist forwent their old privileges in 1871 and the government compensated them, for their lands, by granting them deeds. Thus everything was completed peacefully and the industrial Japan came into being, taking its position in history. Does this description, then, apply to the concepts of the historical materialism and the explanations of Marx??

Marxism asserts that a change from one historical stage to another does not take place except in a revolutionary way as the gradual quantitative changes lead to sudden temporary change although the changeover of Japan from feudalism to capitalism took place peacefully, the leading feudalists forgoing their rights. They did not oblige Japan which was on its way to capitalism,

to effect a revolution like the French revolution in the 1789.

Marxism also believes that no development takes place except through class struggle, between the class supporting the development and the other which tries to oppose it. But we find that the Japanese society entirely favoured the movement for industrial and capitalistic development and even the leading feudalists did not deviate therefrom. All of them believed that the country's life and progress depended on this movement.

Marxism is of the opinion — as we have read in the previous versions of *Capital* that the capitalistic accumulation, which is the basis of the industrialist capitalism, cannot be explained by means of (innocent moving?) to use his expression. It is explained only by acts of violence, raids, operations of deprivation and extortion, although the historical fact of Japan shows otherwise. The capitalistic accumulation did not take place in Japan, nor did the industrialist capitalism grow there as the result of raiding and colonisation or because of the operations of stripping the producers of their means of production. This movement took place only on account of the activity in which the whole of Japan participated and utilised all its political influence in the growth of the ruling authority. Consequently, bourgeoisie appeared on the social stage as the result of these political, ideological and other activities, and not as a power creative for an unsuitable political and ideological atmosphere.

LAWS OF THE CAPITALIST SOCIETY

When we consider the laws of the capitalist society from the historical materialistic point of view, we feel the need of bringing the economic aspect of Marxism which does not become as clear with its full economic features when Marxism analyses and of the stages of the history, as it does when Marxism studies the capitalist stage. Marxism has analysed the capitalist society and

its economic conditions and studied its general laws on the basis of historical materialism. It subsequently stressed the inconsistencies lurking in the depths of capitalism and which pile up in accordance with the laws of the historical materialism, until ultimately they take the capitalist system to its inevitable grave in a decisive moment of the history.

LABOUR IS THE BASIS OF VALUE

Like other economists who were his contemporaries or who lived before him, Marx began his study of the substance of the capitalist series society and the laws of the bourgeoisie political economics by analysing the exchange value being the life nerve in respect of the capitalist society, making his analytical theory of value a corner stone of his general theoretical edifice.

Marx did not do anything fundamental in the field of analysing the exchange value. He only adopted the conventional theory which was built by Ricardo before him which says: "Human work is the essence of the exchange value. The exchange value of every product is, therefore, estimated on the basis of the amount of work involved therein, values of different things varying with the difference of labour involved in their production. Thus the price of an article the production of which requires one hour of work is equal to half of the price of an article on the production of which two hours of work are spent, normally."

This theory is regarded as the starting point by Ricardo and Marx both in their analytical study of the framework of the capitalist economy. Each of them has made it the basis of this theoretic edifice. Ricardo had preceded Marx in giving this theory a definite scientific form, but a number of economic thinkers and philosophers even before them both had mentioned it, like the English Philosopher, John Locke who has pointed out this theory in his discussions and then it was adopted in a limited

sphere, by Adam Smith, the well-known classical economist. He regarded work as a basis of the exchange value among the primitive societies . . . But rightly it was Ricardo who lent the theory the import of comprehensibility and believed that work is the general source of the exchange value. Then came Marx, following his path in his peculiar way.

But this does not mean, naturally, that Marx did nothing in regard to this theory beyond resounding Ricardo's theory, but while adopting his theory, he shaped it into his peculiar conceptional framework. Thus he introduced new clarifications in respect of some of its aspects, including therein Marxist element and accepted other aspects thereof just as they were left over by his predecessors.

Therefore, while believing in this theory (work is the basis of value) Ricardo realised that work does not determine the value in conditions where hoarding prevails in which there is no competition as is possible in these conditions that the value of the hoarded commodity may increase in accordance with the laws of demand and supply, without the increase in the work involved in its production. That is why he regarded full competition a based condition for the formation of exchange value on the basis of work. This is what Marx has also said, admitting that the theory does not apply to the conditions of hoarding.

Ricardo also noted that, human work differs in sufficiency so that an hour of work by an intelligent and smart worker cannot possibly be equal an hour of work by a stupid worker. He treated it by prescribing a general measure for the productive sufficiency in every society. Therefore every amount of work creates a value that is compatible therewith, when it agrees with that general measure. This is the very measure which Marx expressed as: necessary amount of work socially when he said, "Every productive work creates a value compatible with it when it is done by the socially recognised method."

Ricardo found himself - after formulating the theory - obliged to alienate elements of production other than work -like land and capital - from the process of calculating the value as long as it remained the only basis therefrom. For that purpose he put forth, his new theory, in explaining the land revenue whereby he changed the prevalent economic meaning of the income, in order to prove that land has no contribution in creating exchange value in the case of full competition. It was customary with the economists before Ricardo to explain the land revenue as being a boon from nature which grows the rough cooperation between the land and human effort in agricultural production and consequently in creating the resultant exchange value. This means, implicitly, that work is not the only basis of the value. It was, therefore, necessary for Ricardo to reject this explanation of the revenue, in accordance with his theory about the value, and put forward an explanation which may be compatible with the theory. That is what he actually did. He, therefore, asserted that the revenue is the result of the hoarding and it cannot appear in case of full competition. So those people who get hold of the more fertile part of the land secure a revenue as a result of their hoarding and because of the others being obliged to exploit the lands which are less fertile.

As far as the capital is concerned, Ricardo said that capital is but an accumulated work, got stored up and embodied in a tool or matter, to be spent afresh for the purpose of production and therefore, there is no justification in regarding it an independent factor in the creation of the exchange value. Thus the matter in production of which an hour of work has been spent and which has then been consumed in a new operation of production, means a work of an hour added to the new amount of works which is required by the new production. Thus Ricardo concludes that work is the only basis of the value.

It was expected that Ricardo should condemn the capital-

istic profit as long as capital does not create new exchange value and so long as the commodity is indebted in its value to the labour of the worker only. But Ricardo did nothing thereof. He regarded it but logical that the commodity be sold at a rate that may fetch a net profit for him who possesses the capital. He explained this by the spell of time that passes between the investment and the appearance of the product of the sale, thereby admitting time as being another factor for creating the exchange value. Obviously this is deemed as another withdrawal on the part of Ricardo from his theory which says that work constitutes the only basis for the value. This is also considered an inability on his part to stick to his theory to the last.

As for Marx, while dealing with the elements of production, which along with work participate, in the process of production and which Ricardo dealt with before him, he introduced in the concepts of his predecessors, on the one side, some amendments and on the other side, he brought in substantial concepts having their own danger. Thus on the one side he studied the land revenue confirming Ricardo's explanation thereof. He could differentiate between the differential revenue about which Ricardo spoke and the general revenue about which he said that there is revenue of the land as whole based on the natural hoarding which limited the area of the land,. as on the other side he attacked Ricardo's admission about the logicality of the capitalistic profit and launched a violent offensive against it, on the basis of the theory of excessive value which is rightly regarded as vital Marxist part of the theoretic edifice built by Marx.

HOW DID MARX LAY DOWN THE FUNDAMENTAL PRINCIPLE OF HIS ECONOMY?

In arguing for the substance of value Marx begins by

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1. *Capital,* p.1186

differentiating between the use-value and the exchange value. Thus a cot, a spoon and a loaf of bread are a collection of merchandise commodities and each one of these items has a certain use-value inasmuch as it provides benefit. Naturally their use-values differ with the difference in the nature or kind of the benefit man derives therefrom. And each one of these commodities has a value of its own. Take for instance the wooden cot produced by the manufacturer. Just as one can sleep on it — and this is what determines its use-value — similarly one can also exchange it for a cloth to wear. This expresses the exchange-value. Thus, while the cloth and the cot differ from each other in respect of the use-value, we find that they have one common exchange-value, i.e. each one of them can be exchanged for the other in the market because a wooden cot equals a silk cloth of a particular kind.

This equation means that a common thing is found in two different things e.g., the cot and the cloth despite the fact that there is difference between their benefits and the matter. Thus the two things are equal to a third thing which is in its nature neither cot nor cloth and this third thing cannot possibly be a natural or technological characteristic for the commodities be-cause the natural characteristics of the two are taken into account only to the extent of the benefit of use they render. The values and benefits of use found in the cloth and the cot being different, the third thing which is common between them must be some-thing other than use-values and their natural ingredients. There-fore, when we drop from the account these values and set aside all the natural properties of the cloth and the cot there remains nothing but the only property which is common to both the commodities, namely, human work. Both of them, therefore, constitute embodiment of a certain amount of work. And since the two amount of work spent in the production of the cot and the cloth are equal, their exchange value, consequently, would also be equal.. .

Thus the analysis of the process of exchange leads to the conclusion that work is the essence of the exchange value. [1]

The price of the commodity in the market is, basically, determined in accordance with this law of exchange value, that is, in accordance with the human work involved therein. But the market price is not compatible with the natural exchange value, which is determined by the law mentioned above, except in case where supply is equal to demand. In this way the price of the commodity could possibly rise above its natural value according to the proportion existing between the demand and the supply. The laws of supply and demand can, therefore, raise or lower the price, that is, they can make it inconsistent with the natural value. But the natural values of commodities play the role of restricting the effect of the laws of supply and demand. Thus, although they allow the price of the commodity to rise above its value due to shortage of the supply and the excessive demand, for instance, yet they do not let this increase take place in an unrestricted form. That is why we find that the price of handkerchief, for instance, cannot possibly rise to the level of that of a car, however much the laws of supply and demand may dominate. This hidden power in the handkerchief which attracts the price for it but which does not allow it to rise unchecked is the exchange value.

Therefore, the natural value is an established fact behind the price, which is created by the work that is involved in the production of the commodities, the price being a market expression thereof which is limited by the natural value while the laws of supply and demand play a secondary role in raising or lowering it, in accordance with the condition of competition, the proportion of the supply to the demand and the extent of the hoarding existing in the market.

1. Vide *Capital,* vol.i, sec.l, chap.l, pp.44-49

Marx noted — as did Ricardo before him — that this law of value does not apply to the condition in which hoarding exists because the value in such circumstances is determined in accordance with the laws of supply and demand in which the hoarders dominate. Similarly this law of value is not applicable in the case of some kinds of technical and monumental (vestigial) productions like the plate which is produced by the skill of an out-standing artist or a handwritten letter which dates back to hundreds of years. The price of such articles is therefore very high in view of their artistic or historical beauty despite the comparative smallness of the work involved therein.

That is why Marxism declared that the law of value based on the work depends firstly on the existence of full competition and therefore it does not extend to the conditions of hoarding and secondly, on the commodity being a collective production which could always be had by means of collective work. Thus the law does not apply to an individual private production like the artistry painting and the hand-written letter.

We would like before anything else, to indicate a grave phenomenon in the Marxist analysis of the abstance of value. And it is this that in his analysis and discovery of the law of value, Marx followed a purely a divesting method, divorced from the external fact, and his economic experiments. Thus he suddenly transmigrated into the (metaphorical) personality of Aristotle in the matter of inference and analysis. This phenomenon has its cause which obliged Marx to take this stand. Because the facts which are clear from the economic life always express phenomena entirely inconsistent with the results to which the Marxist theory lead. Because it is a result of this theory: "that the profits earned differ from Project to Project, according to the difference of the amount of work paid for and spent during the production with-out the quantity of the implements and tools having any effect therein. Because they do not add to the product any value more than what they

deprive them of although the profit in the prevailing economic life goes on increasing with the increase in the tools and implements needed by the Project."That is why Marx could not put up his theory by means of evidences from factual economic life and therefore he tried to prove it in a divesting way until when he completed this mission of his, he came to reverse results in the actual economic life, in order to emphasise that they were not found reversed as the result of the fallacy of the theory he behaved in, but they were only a phenomenon of the capitalist society which obliges the society to deviate from the law of natural value and conditioning in accordance with the laws of supply and demand.[1]

CRITICISM OF THE FUNDAMENTAL PRINCIPLE OF MARXIST ECONOMY

Let us now examine the Marx law of the value in the light of the evidence he has put forward thereon. Marx starts in his argument as we have seen — from analysing the process of exchange (exchange of the wooden cot with a silk cloth for example). So he finds that the process expresses equality of the cot with the cloth in the exchange value. He then asks: "How is it that the cot and the cloth are equal in the exchange value?" Then he replies by saying that the reason for this is that they have one thing in common, which exists in them in the same degree. And this thing which is common between the cloth and the cot is nothing but the work involved in their production, rather than the benefits and the natural properties in which the cot differs from the cloth. The work, then, is the essence of the value. But what does Marxism say if we adopted this very analytical method, in the process of exchange between a collective production and an individual one ? Does, therefore,

1. *Capital*, p.1185

the vestigial letter -and that is what Marxism calls vestigial production - not have an exchange value? Is it not possible to exchange it in the market for cash, a book or for any other thing? So if we exchange it for a collective production like a copy of al-Kãmil's *History,* for instance, it would mean that the exchange value of a page of the vestigial letter, for instance was equal to a copy of the *History* of al-Kãmil. Let us then find out the common thing which lent to the two commodities same exchange value, just as Marxism searched for the common matter between the cot and the cloth. So just as the same exchange value of the cot and the cloth must be an expression of a page common between them (and this is in the opinion of Marxism the amount of work expanded in their production), similarly, after the same exchange value of the vestigial letter and a copy of al-Kãmil's *History,* it is (an expression of) the common matter. Can, therefore, this common matter be the amount of the work spent in their production? Naturally never so. Because we know that the work involved in the vestigial letter is far less than that involved in the production of one printed copy of al-Kãmil's *History,* including its paper, cover, ink and the printing. That is why artistic and vestigial commodities have been excepted from the law of value.

We do not blame Marxism for this exception as every law of Nature has its own exceptions and conditions. But we do demand of it - on this basis - an explanation of the matter which is common between the vestigial letter and a copy of al-Kãmil's *History* which have been exchanged with each other in the market in the same way in which the exchange had taken place between the cot and the cloth. If it was necessary that there be a matter common between the two commodities with equal value, beside the equality in the process of exchange, then what is that thing which is common between the vestigial letter and a copy of the *History* of al-Kãmil the two commodities which are

different from each other in so far as the amount of work involved, the nature of the benefit and other peculiarities are concerned? Does not this prove that there is something other than the work involved therein common among the commodities which are exchanged in the market and that this common thing is found in the commodities produced individually in the same way as it exists in those commodities which bear the mark of collective production? And when a common matter is found in all the commodities, despite the difference in the amounts of work involved and in their mark of having been produced individually or collectively and also despite their difference in the benefits and natural and engineering peculiarities, then why should not this be the basic source and internal essence of the exchange value? !

Thus we find that the analytical method adopted by Marx makes him stop in the midway and does not let him continue his inferences, as long as the amounts of work involved in the production of the commodities differ greatly while they are equal to one another in the exchange value. Therefore equality of the amounts of work is not the latent secret behind the equality in the operations of exchange. What is this secret then??

What is that thing which is common between the cot and the cloth and the vestigial letter and the printed copy of the *History* of al-Kãmil, which determines the exchange value of each of these commodities proportionately with its share thereof??

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In our opinion there is another difficulty which faces Marx law of value which cannot be overcome by the law because it expresses inconsistency of this law with the natural reality which the people experience, whatever religious or political mark it may have. It is therefore not possible that this law may be a scientific

explanation of the fact which contradicts it.

Let us take land as an example to show the inconsistency between the law and the reality. Thus the land is undoubtedly capable of producing a large number of agricultural produces, that is, it can be put to several alternative uses. The land can thus, be utilised for the cultivation of wheat or instead of wheat it can be utilised to obtain cotton and rice etc. And obviously different lands are not similar in their natural capacity for production, as there are some lands which are more capable of production of a certain kind of agricultural production like rice, for example, while there are others which are more capable for the cultivation of wheat and cotton. Similarly every land possesses natural capability for yielding a certain product. This means that if a certain amount of work is spent on a land, properly selected keeping in view of its capability for producing certain kind of crop, it would yield large quantities of wheat, rice and cotton, for instance. But if that very amount of collective work is spent on an improperly selected land, without its capability of producing a certain kind of crop being kept in view, it would be possible to obtain only a part of the quantities obtained in the former case. So can we imagine that this quantity of wheat, for instance, is, in respect of exchange value, equal to that large quantity obtained when the selection of the land was made with due regard to its suitability for the production of a certain kind of yield, only because the work involved in its production is equal to that spent in the former case? And can the Soviet Union which is based on Marxism, allow itself to equalise those two different quantities in respect of the exchange value, because they rep-resent same amount of social work?

The Soviet Union or any other country in the world, undoubtedly, realises practically the loss which it would suffer as the result of not utilising every land to grow such crop as it is most suitable for.

Thus we realise that same amount of agricultural work may result in two different values according to the method adopted in its distribution among the lands of different capabilities.

It is clear, in the light of this, that the greater value which comes to be obtained by utilising every land for the production of that kind of crop for the production of which it is most capable, is not the result of the power expanded in the production as the power remains the same and unchanged whether the land is cultivated with what is most suitable for it or otherwise. The greater value is only indebted to the positive role which the land itself plays in promoting and improving the production.[1]

And thus we face the earlier question once again as to what is the real content of the exchange value in the constitution of which nature plays a role just as the productive work plays its

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1. Marxism may, in defence of its point of view say that if production of a kilo of cotton, for instance, requires one hour work in the case of some lands and two hours of work, in the case of some others, it is therefore necessary to take the average in order to know the average collective work necessary to produce one kilo of cotton, which in our example is one and a half hour. Thus one kilo of cotton comes to mean one and a half hours of average collective work, its value being determined, accordingly. Thus one hour work on the land which is more capable would render greater value than that rendered by an hour of work of the other land, because although the two works are equal in individual respect, yet the amount the average collective work involved in one of them is greater than the one embodied in the other. Because one hour work on a fertile land is equal to one and a half hours of average collective work. As for an hour of work on the other land, it equals three fourths ($^3/_4$) of an hour of average collective work. The difference between the two products in respect of the value is therefore due to the difference of the two works themselves in respect of the amount of average collective work involved in each of them.

But we on our part ask as to how an hour of work on the land more capable for the cultivation of cotton became greater than itself and by dint of whose power it was that half an hour work was added to thereto

important role therein?

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There is another phenomenon which Marxism cannot explain in the light of its peculiar law about the value although it exists in every society, and this is the falling of the exchange value of the commodity with the decline in the collective desire or demand for it. So any commodity, the desire or demand for which weakens, the society no longer believing in the importance of its benefit, loses a part of its exchange value, irrespective of whether the change in the society's desire (demand) comes about as the result of a political, religious or ideological or any other factor. In this way the value of the commodity falls despite

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so that it became equal to the work of one hour and a half? Certainly this half an hour of work which foisted itself, magically, into the work of one hour, making it greater than itself, is not of human production nor is it an expression of a power spent for it, because in utilising the more capable land one does not spend a speck of power more than what one spends in utilising the less capable land. It is but the product of the fertile land itself. Thus it is the fertility of the land which is a magical way, granted half an hour of collective work to the work, free of charge.

Therefore, when this half an hour got into account of the exchange value of the production, it meant that the land, being able to extend an hour of work by lending its power of an hour and a half, plays a positive role in constituting the exchange value and that the productive work on the part of the producer above is not the essence of the value and its sources.

And if the magically earned half an hour of work did not enter the account of the value and the value was determined only in accordance with the work rendered by man, it would mean, the cotton produced with an hour of work done on the land more capable therefore, was equal to the cotton resulting from the work of an hour done on the less capable land. In other words it means that one kilo of cotton was equal to half a kilo thereof.

the fact that the amount of collective work involved therein remains unchanged as also the conditions of its production. This proves clearly that the degree of the utility of a commodity and how far it satisfies the needs has a bearing on the constitution of the exchange value. It is therefore wrong to ignore the nature of the utility value and the degree of the utility of the commodity as is established by Marxism.

While ignoring this phenomenon and trying to explain it in the light of the laws of supply and demand, Marxism stresses another phenomena as being factual expression of its law of value. And that is this: "that the exchange value generally conforms to the work involved in the production of the commodity. When, therefore, the conditions of production were bad and an enhanced amount of work was needed to produce the commodity, its exchange value also increased accordingly. On the other hand, if the conditions of the production improved and half of the previous collective work could be sufficient to produce the commodity, its value also decreased by fifty per cent."

Although this phenomenon is a clear reality in the course of economic life, yet it does not prove that the Marxist law of value is correct. Because as this law can possibly explain the relationship between the value and the amount of work, similarly it can also be explained in another light. For instance, if the conditions of production of paper become bad so that its production required enhanced amount of work, the quantity of the collectively produced paper also fell by fifty percent, in case the total collective work involved in the production of the paper remained the same. And when the quantity of the paper produced decreased by fifty percent, the paper would become more scarce with the demand for it increasing and its maximum benefit enhancing.

Contrarily if the amount of the work needed for the production of paper decreased by fifty percent, it would result in the

increase of the quantity of the paper produced by the society - in case the total collective work involved in the production of the paper maintained its previous amount. It would also cause its benefit to decline and the paper would also become comparatively less scarce as the result of which its exchange value would also register a decrease.

As long as it is possible to explain the phenomenon in the light of the factor of scarcity or the maximum benefit in the same way as it was possible to explain it on the basis of the Marxist law of value, it cannot possibly be regarded as a scientific evidence, drawn from the actual life, on the correctness of this law to the exclusion of other assumptions.

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The work, after this all, becomes a heterogeneous factor which includes units of efforts which differ in importance and vary in degree and value. So there is the technical work which depends on special experience and also simple work which does not require any scientific or technical experience. Thus an hour of work by a porter is different from an hour of work by a building engineer. Similarly one day which a technical manufacturer spends in the production of electric motors is entirely different from the work of the labourer, who digs streamlets in a garden.

There are also many proper factors, which have a bearing on the work, which is regarded a human quality. These factors determine importance of the work and the extent of its effectiveness in the same way as they determine the organic and mental labour required by it. Thus the natural organic and mental aptitude of the worker, his desire to excel others and the kind of feelings he harbours in his mind about the particular work are all factors which make him embark on it, however hard it may

be, or turn away therefrom, however light it may be. Similarly, the feeling of injustice and deprivation which a worker may have or the incentive he may have for invention and innovation as also the circumstances in which he may either feel bored or get hopeful, are all regarded as factors which affect the quality of the work and determine its value.

It is, therefore, a folly to measure a work quantitatively and numerically alone. But it should also be measured qualitatively which might determine the quality of the work in question and the extent to which it was effected by these factors. Thus an hour of work done in a congenial mental conditions is more productive than an hour of work carried out under unfavourable conditions. Thus, just as it is necessary to measure amount of the work which is indeed the objective measuring factor in similarity, it is necessary to measure quality of the work, in the light of different psychological factors which have a hearing thereon and this constitutes the personal factor in th:' measurement.

It is obvious that while we have minutes of the watch as a means to measure the objective factor i.e. to determine amount of work, we have no such meter to measure the personal factor in the work and its quality which is determined in accordance with it.

Then how does Marxism get rid of these two problems e.g., the problem of a general measurement for technical and non-technical amounts of work and that of qualitative measurement for the effectiveness (sufficiency) of the work, in accordance with the psychological, organic and mental factors which differ from worker to worker.

As for the first problem, Marxism has tried to solve it by classifying work into simple and compound. Thus the simple work means the effort which is expressed by way of the natural power which every evenly built man possesses, without his

organic and mental framework having been specially promoted, like carrying of a load by a porter. The compound work is that work in which experience etc. gained through some previous work is utilised like the work of doctors and engineers. Therefore the general meter of the exchange value is the simple work. Since the compound work is a double simple work, it creates exchange value greater than that created by the single simple work. Thus the work which an electrical engineer performs in a week in making a special electric apparatus is greater than the work of a porter which he does in a week in carrying loads, keeping in view the fact that the work of the engineer includes the work done by him, previously, in order to gain special experience in engineering.

But can we explain the difference between a technical and non-technical work on this basis?

This explanation given by Marxism of the difference that exists between the work of the electrical engineer and that of a simple worker means that if the electrical engineer, for instance, spends twenty years to gain scientific knowledge and technical experience in electrical engineering and thereafter practises the work for another twenty years, he would obtain a value for the total product he realises during the two decades, which was equal to the value created by the porter through participation in the production by way of carrying loads for a period of four decades. In other words two days' work of the porter who participates in the production in his own way is equal to one day's work of the electrical engineer, in view of the fact that it contains a study work done previously. So is it the fact that we see in the course of the economic life? Or can any market or stage agree to exchange the product of two days' work by a simple worker for one day's work of an electrical engineer?

There is no doubt that the Soviet Union, to its good luck, 'does not think of adopting the Marxist theory about the simple

and compound work, otherwise it would sustain ruination if it declared that it was prepared to give one engineer against two simple workers. That is why we find that a technical worker in Russia sometimes gets a salary ten times or more than that of a simple worker despite the fact that he does not spend even nine times the age of a simple worker in the studies and in spite of the fact that technically competent hands are available in Russia sufficiently, in the same way as the simple workers are. Therefore the difference is attributable to the law of value rather than the supply and demand conditions and this is a big difference so that it is not sufficient, for its explanation, to include the previous work as a factor in the constitution of the value.

As for the second problem (i.e. qualitative measurement of the sufficiency of work, in accordance with psychological, organic and mental factors which differ from worker to worker), Marxian has got rid of it by adopting collective average of work as a meter to measure the value. Thus Marx writes:

> The collectively necessary time for producing commodities is that which is needed for any operation (work) being carried out with an average amount of dexterity and power under normally natural conditions in respect of certain collective environments. Therefore it is work alone or the necessary time needed for the production of any kind in a certain society which determines the quantity of the value regarded — generally as an average copy of its kind.[1]

On this basis, when the producing worker enjoyed such conditions as raise him from above the collectively average degree, he could possibly create for his commodity, in one hour of work, a value higher than that created by an average worker during that hour because an hour of his work was greater than an hour of the average collective work. Thus the collective

1. *Capital*, vol.i, pp.49-50.

average of the work and of various factors thereof, constitutes the general measure ʾof the value.

The folly which Marxism commits in this regard is that it always studies the issue as being one of quantity. Therefore the high conditions that are available to the worker are, in the opinion of Marxism, but factors which help the worker in producing a larger quantity in less time with the result that the quantity which he produces in one hour becomes greater than the quantity produced in an hour of the collective average work and therefore ʾof greater value so that while this worker produces two meters of cloth in one hour, an average mediocre worker produces during that hour only one meter. Thus the value of the two meters of cloth in one hour, an average. Thus the value of the two meters would be four times the value of this one meter because they represent two hours of general collective work although their production was actually completed with one hour of specialised work.

But the thing which is notable is that the intellectual, physiological and psychological conditions which an average worker does not possess do not always mean increase in the quantity of production made by a worker who is in possession thereof. But sometimes they mean qualitative distinction of the commodity produced. There are two painters for instance each one of whom has one hour to paint a picture, but natural ability of one of them may make the picture painted by him more charming than that painted by the other one. The question here, therefore, is not that of producing larger quantity in less time but the one who does not possess that natural talent cannot produce a similar picture even if he spends double the time in painting the picture. Therefore we cannot say that the picture which is more charming represented two hours of general collective work because even two hours of general collective work are not sufficient to produce that picture which the gifted

painter produced due to his natural ability.

Here we reach the basic point in regard to these two pictures and that is this, that the two differ in their values undoubtedly, in the market, irrespective of its political nature or the proportion in the demand and the supply. Because no one would like to exchange the charming picture for the other one even if the supply and demand were proportionate. This means that the charming picture earns additional value from an element which is not found in the other one. This element is not the amount of work because the charm of the picture - as we have seen - does not represent more amount of work. It simply represents the quality of work involved in its production. Therefore the quantitative meter of work — or in other words the minutes of the watch — is not enough to determine value of the commodities in which different amount of work were involved. It is therefore not possible always to find in the amount of individual or collective work an explanation for the difference in exchange values of the commodities because this difference is at times attributable to quality rather than quantity, to the kind and peculiarity and not to the number of the hours of work.

These are some of the theoretical difficulties in the way of Marx which prove inability of the Marxist law to explain the exchange value. But despite all these difficulties Marx felt obliged to adopt this law, as is quite clear from his theoretical analysis of value which we reviewed in the beginning of this discussion. Because while trying to discover the matter that is common between two different commodities, like cot and cloth, he did not take into account the utilitarian benefit and all the natural and mathematical peculiarities, because the cot differs from the cloth in its benefit and physical and mathematical properties. It then appeared to him that the only thing which remained common between the two commodities is the human work done during their production and here lies the basic mistake in the analysis, because although the two

commodities offered in the market at one price, there are different in their benefits and their physical, chemical and mathematical peculiarities but despite that the psychological trend existing in the same degree is common between them and that is the human desire to possess that commodity and that. Thus there is collective desire for the cot as also for the cloth. This desire is attributable to the use and benefit they have in them. In this way, although the benefits they render are different from each other yet the result produced is common between them which is the human desire. It is not necessary in view of this common element — that work be regarded basis of the value, being the only common matter between the exchanged commodities, as Marxism thinks, so long as we found a matter common between the two commodities, other than the work involved in their production.

Thereby collapses the main argument put forward by Marx to prove his law and it becomes possible for the common psychological trait to take the place of the work and that it be adopted as a meter for the work and a source thereof. It is only in this way that we can possibly get rid of the former difficulties which faced Marx and it is only thus that we can explain —in view of this new common matter — the phenomena which the Marxist law of value failed to explain. Therefore the matter common between the vestigial letter and a printed copy of the *History* of al-Kãmil, for which we were searching but could not find constituted in work because of the difference of the amounts of work involved in them and which could explain the exchange value, could be found in this new psychological meter. Thus the vestigial letter and the printed copy of al-Kãmil's *History* have the same exchange value because the collective desire for them exists equally.

Similarly all other problems melt off in the light of this new meter.

Since the desire for a commodity results from the benefit of use (usefulness) it provides, it is not possible to drop it from the account of the value. That is why we find that a commodity which has no benefit commands no exchange value generally, however much be the work involved in its production. Marx himself admitted this fact but he did not describe to us — nor was it possible for him to do so — the secret of this link existing between its usefulness and the exchange value and as to how the usefulness participated in constituting the exchange value although he had dropped it from the very beginning because it differs from the very beginning because it differs from commodity to another. But in the light of the psychological meter, the link between the usefulness and the value becomes quite clear, as long as the utility remained the basis of the desire and the desire was the meter of the value and the general source thereof.

Although the utility is the main basis of the desire but it does not determine the desire for a thing alone, because the degree of the desire — for any commodity — is proportionate with the importance of the benefit it renders. Therefore, the greater the benefit of a commodity (usefulness) greater the desire for it and the degree of the desire is proportionate conversely with the extent of the possibility to obtain the commodity. Thus the greater the possibility of the availability of the commodity, the lesser the degree of the desire for it and consequently its value falls. And obviously the possibility of obtaining the commodity depends on the scarcity or the abundance thereof. Because in a natural way to such an extent that it may be possible to obtain it from nature, without making any efforts, like the air. In such a condition, the ex-change value is zero because of the desire being non-existent and the lesser the possibility of obtaining a commodity because of its scarcity or the difficulty in its production, the more the desire for

it and greater its value.[1]

MARXIST CRITICISM OF CAPITALIST SOCIETY

Some people think that we study the Marxist views about the capitalist society only with intention to falsifying them, and justifying capitalism, because it is recognised in the Islamic society which believes in the capitalistic ownership of means of production and refuses to adopt the principle of the socialistic ownership and therefore as long as Islam embraces capitalism it is necessary for the followers of Islam to ridicule Marxist views regarding the capitalist position of the livelihood in our modern history, and to put forward arguments to show the mistake of

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1. This exposition is more applicable to the reality than the theory of maximum benefit, based on the law of the inconsistency of value. According to this theory value of a commodity is estimated on the basis of the potentiality of satisfying the desire the last one of the units of the commodity possesses. The last unit possesses the least power of satisfying the desire, in view of the gradual inconsistency of the desire with the satisfaction. That is why abundance of a commodity causes inconsistency of the maximum value and fall of its value in a general way,

This theory does not represent the reality completely, because it does not apply to some cases in which consumption of the first unit or units might cause more desire and dire need for consumption of new units, as happens in the case of those materials, which get into vogue rapidly. If therefore, the theory of the maximum benefit was correct its result would have been that the exchange value, in such cases, increased with the increase in the units of the commodity offered in the market, because the desire or the requirement at the time of the consumption of the second unit is greater than that at the time of the consumption of the first unit. But the facts generally indicate otherwise which proves it is not the degree of the need one feels, for the satisfaction, at the time of the consumption of the last unit, which constitutes the general meter of the value, but it is the degree of the possibility of obtaining (the commodity) which - along with the quality of the benefit and its importance - determine, the value of the commodity.

the Marxist analysis in so far as he brings out the complications of this reality and its inconsistencies as also its horrible results which go on becoming grave until they exterminate it.

Something like this does occur to the minds, but the fact is that Islamic attitude or stand does not oblige a researcher to defend the capitalistic aspect of the livelihood and its collective systems. What is necessary is to bring out the part which is common between the Islamic society and the capitalist one and to study the Marxist analysis in order that the extent of its relation-ship with the common part becomes clear.

It is therefore a mistake to defend the reality of the Western Capitalism and deny its mistakes and evils, as some religious people do, behaving that this is the only way to justify the Islamic economy, which recognises private ownership.

It would also be mistake –after we have come to know the economic fact does not constitute the basic factor in the society– to follow the method adopted by Marx to analyse the capitalist society and discover the factors of its ruination. Because he considered all the results revealed by the capitalist society on the stage of history, as the outcome of a basic principle of this society i.e. the principle of private ownership. So any society which believes in private ownership necessarily proceeds in the historical direction in which the capitalist society had marched sustaining the same results and inconsistencies.

Thus to settle the account with Marxist's stand vis-à-vis the capitalist society, I consider it necessary that we should always stress these two facts.

Firstly: That it is not the religious duty of Muslim scholars doing research in the economy to justify the situations (conditions) of the capitalist society and to meet its bitter realities in a hostile manner.

And secondly, it is not possible to regard the historical reality of the modern capitalist society as the true picture of

every society which allows private ownership of the means of production, nor is it possible to generalise the conclusions reached by the researcher as the result of his study of the modern capitalist society and apply them to all other societies which agree with it in the belief in private ownership despite their frameworks and limits being different from those of the modem capitalist society.

Marxism condemns the principle of private ownership, with all the results produced by the capitalist society, in consonance with its basic concept about the explanation of the history which says that the economic factor, which is represented by the nature of the ownership in vogue in the society, is the comer stone in the entire social entity. Thus all that happens in the capitalist society has its roots in the economic principle of the private ownership of the means of production. Thus the increasing misery, networks of hoarding, atrocities of colonialism, armies of the unemployed people and serious inconsistency in the heart of the society are all the results and historical links to which every society believing in private ownership is subjected.

Our view point about these Marxist views regarding capitalist society is summed up in two points:

First, they represent a mingling up of the private ownership of the means of the production and the reality thereof characterised by a certain economic, political and conceptional nature. Thus complications of this foul reality are regarded as inevitable results for any society that allows private ownership.

Second, they are mistaken about the so-called scientific and economic foundations which lend Marxism its scientific character in its analysis of the inconsistencies and historical developments of the capitalistic society.

INCONSISTENCIES OF CAPITALISM

Let us now start with the most important of the inconsis-

tencies of the capitalistic society, in the opinion of Marxism, or in other words, the main axis of the inconsistency, which is the profit which flows abundantly to the capitalist owners of the means of production through the production on wage basis. It is thus the profit in which lies the secret of the so-called inconsistency and riddle of the entire capitalism, which Marx tried to discover in the excessive value as he believes a commodity owes its value to the paid work involved in its production. Therefore, when a capitalist purchases some wood for one `Dinãr' and then engages a worker on wage to make a cot thereof which he sells for two Dinãrs, the wood earns a new price which represents the second Dinãr added to the price of the raw wood. The source of this new value is but the work, according to the Marxist law of value. So in order that the owner of the wood and the tools may earn some profit he should pay only a part of the new value - which was created by the worker - as a wage for his work, and retain the remaining portion of the value as his own profit. Hence it is always necessary that the worker produces a value which is greater than his wage. It is this addition which Marx calls the excessive value and regards it as the general source of benefit for the entire capitalist class.

Marx alleges -while explaining the profit to us in this light- that this is the only explanation for the entire issue of capitalism. Because when we analyse the process of the capitalistic production we find that the owner bought from the trader all the materials and tools which are needed for production as also from the worker all the human power required for the production. Thus these are two exchanged and on examination we find that both the exchanging persons can benefit in respect of the usefulness because each of them exchanges a commodity - possessing usefulness which he does not need, for another one the benefit of which he needs. But this does not apply to the exchange value, as the exchange of commodities in its natural form, constitutes

exchanging of equals and wherever equality exists there can be no profit because each one gives a commodity in exchange for another one having an equal exchange value. This being the case, whence could have an excessive value or a profit?!

Marx goes on to emphasise, in his analysis, that it is impossible to suppose that the seller or the buyer would earn profit at random in view of his being able to sell the commodity at a price higher than its purchase price or that he could purchase it at a price less than its value. Because ultimately he would lose what he had got as a profit, when his role changed and he became a buyer after being a seller or he became seller after having been a purchaser. No surplus value can, therefore, formulate neither as a result of the sellers selling the commodities at a price higher than their value nor because of the buyers buying them for a price less than their value.

It is also not possible to say that the producers get a surplus value because the consumers pay higher price for the commodities than their value so that their owners — being the producers had the privilege of selling the commodities at a higher rate. Because this privilege does not represent the riddle as every producer is regarded, in another respect, as a consumer and thus being so, he loses what he gains as a producer.

Thus Marx concludes from this analysis that the surplus value which is gained by the capitalist is but a part of the value which the workers work lends to the material. The owner secures this part simply because he does not purchase from the worker - whom he employed for ten hours - his labour during this period so that he may be obliged to equally compensate for his labour or in other words, give him a compensation which is equal to the value created by him. Because labour cannot possibly be a commodity to be purchased by the capitalist with a certain exchange value - because the work is the essence of value in the opinion of Marx, and thus all the things owe their values to the

work, which on its part does not earn its value from anything. It is therefore, not a commodity. In fact the commodity which the owner purchases from the worker is the power of work, a commodity the value of which is determined by the amount of the work necessary for retaining and reviewing that power i.e. by the amount of work which is essential to sustain the worker and to preserve his faculties. So the owner purchases from the worker power for working for ten hours rather than the work itself. He purchases this power with the value which ensures to the worker creation and renewal of that power and that is the wages. Since the work of ten hours is greater than the work whereupon depends the renewal of the faculties of the worker and his sustenance, the capitalist retains the difference of the value of the power of work, paid to the worker and the value created by the work itself, which he receives from the worker. This difference is constituted by the surplus value which the capitalist gains.

In the light of this Marx believes that he has discovered the main inconsistency in the framework of capitalism which is represented in the fact. that the owner purchases from the worker his power of work but he receives from him the work itself and that it is the worker who creates all the exchange value but the owner makes him forge and be content only with a part of the value created by him and thus steals away the remaining part being a surplus. It is on this that the class struggle between owners class and workers class is based.

This theory (theory of surplus value) first of all holds that the only source of the value of the commodities is the work spent in their production. If the worker received all the value created by him nothing would be left for anyone else to gain. Therefore, in order that the owner may have some profit, he must set aside for himself a part of the value which the worker creates in his product. The theory of the surplus value therefore — basically

centres round the Marxist law of value. This link believes the theory and the law unifies their end and makes laws' failure, theoretically, a cause of the fall of theory as well as fall the theories of Marxist Economy which are based on that law.

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In our study of Marx's law of value, as the back born of the entire Marxist economy, we have come to know that work is not the basic substance of exchange value, but the value is measured with a personal psychology which is the collective desire. And when the desire is the essence of the exchange value and its source, we would not be obliged to always interpret the profit as being a part of the value which is created by work, as Marx does. We cannot, in that case, ignore the process of constitution of the commodities' value, as a share of the raw material, comparatively scarce. Thus the modern material, for instance, being a comparatively scarce natural material — though not as rare as air — possesses an exchange value and participates in the creation of the exchange value of the cot, in the light of the psychological meter of value despite the fact that no human work is spent in the production. The same is the case with all the natural materials embodied in various commodities produced, which have been completely ignored by Marxism which does not believe that they have any role to play in constituting the exchange value of the commodities, as he thinks that they are of no exchange value as long as they do not represent work spent to bring them about.

It is true that raw material, while it exists inside the earth associated by human work appears to be insignificant and does not have any special importance unless it is mingled with human work. But this does not mean that the material has no exchange value and that all the value results from the work alone as is believed by Marxism because as this description applies to a

mineral material lying inside the earth, it also applies to the work which is involved in extracting the material and its adjustment. Because without the mineral material this work was of no value at all. It is easy to imagine the insignificance of this amount of human work spent on extracting a mineral like gold, if it was spent on sport or jesting or in mining rocks which avail nothing. The two elements (material and work) therefore conjointly constitute the exchange value 'of the amount produced from the mine, for instance, and each of them has a positive role to play in constituting the commodity of gold which enjoys a special exchange value in accordance with its psychological meter.

Just as the material has its share of the value of commodities in the light of the psychological meter of the value, similarly different elements of production must also be taken into account. Thus an agricultural produce does not derive its exchange value from the amount of the work involved in its production alone but the land has also a bearing on this value. This is proved by the fact that when this very amount of work is spent on cultivating the land with a crop for which it is less suitable, it gets a produce that does not have the same exchange value which the first one had. When the raw material and different elements of production have a bearing on the creation of value, the entire value, therefore, does not come forth from the work nor is the worker the only source of the value of the commodity. Consequently it is not necessary that the surplus value (profit) be a part of the value which the worker creates as long as it could possibly represent the share of the natural production material in the value of the commodity produced.

After this there remains one question connected with this value which the commodity derives from Nature: viz., to whom does this value belong and who is its owner? And is it the property of the owner or of anyone else? This is another point which does not fall within the purview of the discussion. The

point we were discussing was the relationship of the surplus value has with the work and whether it must be a part of the value created by the work or could it come forth from some other source? So when Marx regarded work as the only basis of the value, he could not explain the surplus value (the profit) except by cutting a part of the value created by the worker. But in the light of another meter for the value like the psychological meter, it is possible for us to explain the surplus value without being obliged to regard it as a part of the value which the worker creates. In a society exchange values always go on increasing –as do its riches continuously "-through the incorporation of new amounts of work in the natural materials and the coming into being of ready made commodities thereby carrying the exchange value derived from the two elements – the work and the natural material — which got incorporated therein. These two elements could –through their merger and partnership – create a new value which was not to be found in anyone of them in case of its existence independently of the other.

There is another thing which Marxism did not take into its account while trying to discover the secret of the profit for which we find no justification even if we adopted Marx law of value and that is the portion of the value which the owner creates for him-self by means of his administrative and managerial talents which he utilises in running an industrial or agricultural project. Experiments have made it quite clear that projects with equal capitals and equal number of workers taking part therein may vastly differ from one another in so far as the profits earned by them are concerned, in accordance with the organisational efficiencies. Thus administration constitutes a practical element necessary for the process of production and the success thereof. To materialize successful production operation it is not enough to have abundant working hands and the necessary tools, but the operation of production needs a leader who may determine as to

how many workers and tools were necessary. He should also determine the proportion in which they were to be used together, beside assigning duties and works to different workers and employees. Besides all this, he should completely supervise the operation of production and thereafter, find out ways of its distribution and make it reach the consumers. So if the work was the essence of the value, the administrative and supervisory work must share the value created in the commodity by the work. It is not possible for Marx to explain the profit, in view of the theory of surplus value, except in relation to the value which the usurious capitalist earns or the capitalistic projects in which the proprietor does not participate by way of management and administration.

The theory of surplus value having collapsed following the collapse of its theoretical basis represented in Marxist law of value, we should naturally reject the class inconsistencies which Marxism deduces from this theory, as the inconsistency between the worker and the owner as being a thief so to say who gets away with a portion of the surplus value created by the former and the inconsistency between what the owner buys and receives from the worker. Because according to Marx, he buys from him the power of work and receives the very work from him.

Thus the first inconsistency depends on the explanation of the profit, in the light of the theory of surplus value. But in a different light, it is not necessary that the profit be a part of the value which the worker creates for himself, so long as the value had a source other than the work. Consequently it is not necessary, under the system of paid work, that the owner should steal away from the worker some of the value created by the latter, so that the class struggle between the owner and the worker be an inevitable phenomenon under this system.

It is true that the interest of hirers lies in the decreasing of wages whereas the hireling's interest lies in the rise of the wage. Thus their interests differ as do those of the hirers themselves.

It is also true that rise or fall in the wage means loss to one party while the other stands to gain. But this is different from the Marxist meaning of the class inconsistency, according to which the inconsistency and embezzlement are part and parcel of the real relations between the hirer and the hireling, whatever its form or shape be. Thus the class inconsistency in its theoretical and firm objective form is based on the basis of the Marxist. Marxist economy collapses with the collapse of these basis. As for the inconsistency in the sense of difference of interests, which makes one party struggle for rise in the wages, while the other party tries to maintain their level, it is indeed an established inconsistency and it is not connected with the so-called theoretical basis of the Marxist economy. But it is like the difference of interests of the sellers and the buyers which makes the sellers raise the prices while the buyers work to resist the same. The same is the case with the interests of technical workers and non-technical workers as it lies in the interest of a technical worker to secure a high level of wages while the rest of the workers demand full parity in the wages.

As for the second inconsistency that exists between what the owner buys from the worker and what he gives to him, it depends on the previous Marxist opinion which holds that the commodity which the owner buys from the worker – in a society allowing work on wage – is the power of work and not the work itself as repeatedly told by the hackneyed capitalist economy, as Marxism find it. Because in the opinion of Marx work is the essence of the value and its meter and therefore it cannot have a value which could be measured or estimated so that it could be sold for that value. But contrary is the case with the power of work for it represents the amount of work involved therein or, in other words, on nourishing the worker - so that value of the power of work could be measured with the work spent therefor and whereby it could become a commodity having some value which

the owner could buy from the worker for that value.

But the reality established by the Islamic economy in this regard is that the owner does not own and buy work from the workers, as believed by the `hackneyed' capitalist economy, as Marxism put it, nor does he buy the power of work, as the Marxist economy holds. Therefore, it is neither the work nor the power of work that is the commodity or the property which the owner buys from the worker and pays for it. What the owner purchases from the worker is the benefit of his work, that is the material effect caused on the natural material by the work. Thus when the owner of the wood and the tools hires a worker so that he may make a cot from that wood, he would be giving him the wage as the price of the form and the modification which the wood would assume, making it a cot as the result of the work of the worker. Therefore, this modification whereby the wood becomes a cot, is the material effect of the work which is consequently the benefit of the work, purchased by the owner from the worker with the wage. Therefore the benefit of the work is something different from the work and the power of work. Similarly it is not a part of the man's entity. It is but a commodity having a value proportionate with the importance of the benefit, in accordance with the general psychological meter of value (meter of the collective desire — demand). The owner, thus purchases from the worker the benefit of his work and he secures this benefit contained in the wood which in our previous example has become a cot through modification, without there being any inconsistency between what he purchases and what he receives.[1]

We should not let ourselves overlook the difference between the benefit of the work and the relatively scarce raw material like the wood and the mineral material. Because although they all have exchange values, in accordance with the

1. Vide *Munyatu 'ṭ-ṭãlib fī ḥãshiyati 'l-kitãb*, p.16.

general meter of value, but the benefit of the work — which means the modification form that occurs in the natural material as the result of the work like the wood which becomes a cot — as being something having a commodity resulting from human work, enjoys (possesses) the element of will and examination. It is thus possible for the human will to intervene in making the goods scarce and thereby raise its price as do the workers' syndicates in the capitalist countries. Therefore, it appears — at the first sight — as though these goods determine their prices themselves at random and in harmony with the extent of the powers of these syndicates. But actually they are subject to the very general meter of value. But the human will can at times possibly come in making the meter rise whereby the wages increase.

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Having studied the theory of surplus value, let us now continue to review the other stages of Marxism's analysis of the capitalist society. We have known — so far — that Marx based the theory of surplus value on his peculiar law of value and explained the nature of the capitalist profit, in the light thereof, concluding therefrom that the basic inconsistency in capitalism lies in the capitalistic profit, being that part of the value created by the paid worker, which the owner steals and cuts therefrom for himself.

Having dealt with his two fundamental intricate theories (i.e. the law of value and the theory of surplus value) and after he felt satisfied with the discovering them from the basic inconsistency in capitalism; he began to deduce the laws of this inconsistency in the light thereof, which leads capitalism to its inevitable doom.

The first of these laws in the law of the class — struggle in which the hirelings plunge against the capitalist class. The idea

in this law centres round the basic inconsistency between the wages paid by the capitalist to the worker and the produce he receives, which has been discovered by the theory of surplus value. Since the owner deprives the worker of a part of the value created by him and pays him but a part thereof, his position vis-à-vis the worker is, so to say, that of a thief, which naturally leads to a grim struggle between the two classes, one which steals and the other, the victim of stealing.

Thereafter comes another law to play its role in intensifying this struggle, i.e. the law of the falling of the profit or in other words the permanent downward trend of the profit rate.

Under this law, the idea is based on the belief that the competition among the production projects, which dominate the first stages of capitalism, leads to the competition among the capitalist producers themselves and naturally this competition makes the capitalist production go forward, making each capitalist desirous of promoting and improving his project in order to obtain more profit. Because of this, no one of the proprietors class finds a way out but to transform a part of his profit into the capital and continuously avail of the scientific and technical progress to improve the tools and implements or to have them replaced by those which are more effective and more productive so that he could keep face with his competition in the movement of capitalistic, production and should not fall down in the mid-way. Thus the very constitution of the capitalist society has the potentiality to oblige the capitalist to accumulate the capital and to improve and promote the tools, which means the power of competition among the capitalist themselves.

This need to accumulate the capital gives birth to the law of the profit rate ever falling. Because the capitalist production depends, in its promotion, increasingly on the tools and equipment, according to the scientific progress in this field, with the amount of work needed decreasing proportionately with the

improvement and competition of the tools and equipments. This means the fall in the new value created by the production, in accordance with the decrease in the amount of work involved in this regard. Consequently, the profit falls which represents a part of the new value.

To meet this necessity (of the fall in the profit), the capitalists have no remedy but to demand from the workers to put in greater amounts of work with the same old wage or to reduce their lot of the new value created by them by accepting less wages. This leads to the intensification of the struggle between the two classes whereby increasing misery and destitution in the workers' circles becomes an inevitable law in the capitalist society.

It is but natural grave crisis should take place thereafter as the result of the capitalists being unable to circulate their commodities, consequent upon the lowering of the level of the purchasing power of the masses, necessitating search for foreign markets. Thus capitalism enters the stage of colonisation and monopolisation with a view to ensuring the profits of the ruling class while the comparatively weak people belonging to the bourgeois class fall in the ravine of monopolisation so that the sphere of this class becomes narrow gradually while that of the toiling class widens because it most warmly welcomes those weak members of the bourgeois class who fall down on the battle of the capitalistic monopolisation. On the other hand the bourgeois class begins to lose its colonies due to the free movements in these colonies and the crisis aggravate little by little until the historical movement curve reaches the decisive point where entire capitalist entity crashes in revolutionary movement inflamed by the workers and labourers.

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This is a brief picture of the stages of the Marxist analysis of capitalism which we can now analyse in the light Of our former study.

It will thus be noticed clearly that the fate of the law of the class struggle which is based on the inconsistency latent in the profit, depends on the theory of the surplus value. Therefore when this theory collapsed — as we have seen — this so-called theoretical inconsistency also vanished and the idea of the class struggle inspired by that inconsistency stood falsified.

As for the law of the fall in the profit, it is but the result of the central principle of the Marxist economy, i.e. the law of value. Because in the opinion of Marx the reduction of the amount of work spent during the production, resultant from the improvement and increase in the tools, causes fall in the value of the commodity and decrease of the profit because the value is but the offspring of the work. Therefore when the amount of work decreased due to increased tools, the value registered a fall and the profit shrank which represents a part of the resultant value. And when the law of the fall in the profit was based on the central principle which says that the work is the only substance of the value, it fell down naturally with the falling of that principle, in our former study and it became possible theoretically that the profit rate should be inconsistent with the increase in the tools and the raw material and the decrease in the amount of work, so long as the work was not the only substance of the value.

After this, let us take up the law of the increasing- misery. This law rests on the basis of unemployment caused by the modem tools and means taking the place of the workers on the process of production. Thus every apparatus or improvement in the apparatus and the equipment throws a number of workers out of employment. And since the production movement progresses continuously, the army of the unemployed, which Marx

calls Reserved Army of the Capitalists, would go on increasing leading to added misery and destitution and starvation here and there.

As a matter of fact Marx has derived this law from Ricardo's analysis of the tools and their effect on the worker's life. Because Ricardo had already adopted the theory of unemployment caused by the lessening of the need for workers, following the manufacture of the required quantity of the more effective equipments and tools. Marx has added another phenomenon to it, resulting from replacing the work by the tools, i.e., the possibility of employing any evenly built human being including women and children in the process of instrumental production, without there being need of these persons having previous experience. In this way skilled workers are replaced by others, with lower wages and the power of the workers to bargain about the wages decreases and consequently the misery increases and gets aggravated day by day.

When after Marx, the Marxists found that the misery in capitalist, European and American societies did not grow and intensify in accordance with the law of Marx, they were obliged to interpret the law by saying that the comparative misery goes on increasing although the condition of the workers, considered separately from that of the capitalists, continues to improve with the passage of time due to different causes and factors. In this we find an example, from among the examples, we had explained in the course of our study of the mixing up by Marxism of the laws of economy and the social realities and how it incorporated the two with each other in a manner leading to faulty results, because of Marxism's insistence on explaining the entire society in the light of economic phenomena. Let us suppose, for instance, that the comparative condition of the workers, i.e., their condition in comparison with that of the capitalists — worsens with the passage of time, but on the other

hand, it improves in respect of abundance and plenty, viewed independently. If this is true, Marxism has a right to give out a limited economic explanation for this phenomenon. But it has no right to give a social explanation for it and therefore declare the necessity of the enhancement of misery in the society. Because the worsening of the comparative condition does not mean misery as long as it improves in an independent form. Marxism has been obliged to revert to this very explanation in order that it may be able there-by to discover the positive power leading to revblution, which is the ever-increasing misery. Marxism could not have reached this discovery if it had not borrowed social names for the economic phenomena and if it had not described as misery the comparative worsening condition.

And finally, what are the causes of destitution and poverty which Marxism find overshadowing the capitalist society?

Indeed the destitution, want, different kinds of poverty and loaf do not result from allowing private ownership of the means of production. They are but the outcome of the capitalistic framework of such an ownership and because of this ownership sweeping off all the means of production as also non-recognition of the general ownership and the established rights in the private wealth for social security and also of special stimulation of the powers of the owners in respect of the disposal of their wealth. But in case the society allows private ownership of the means of production and besides, lays down principles for the general ownership of a large number of the means of production and the social security and economic freedom limited by the public interest which prevents the wealth from concentrating in the hands of a few people. Thus in a society which ensures all this and enforces these principles, no shadow of misery or any of the phenomena of destitution and misfortune which sprang from the nature of the capitalist system in the European societies.

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As for colonialism, we have seen that Marxism gives a purely economic explanation of this also and therefore it regards it as an inevitable result of the higher stage of capitalism, when the local markets and wealth turn insufficient to satisfy the interests of the capitalist class whereupon it feels obliged to possess markets and riches of foreign countries through colonisation.

But the fact is that colonialism does not constitute an economic expression of the backward stage of capitalism. It is but a practical expression, in a deeper manner, of the material intellectualism with its moral measures and its meanings of life and its aims and objects. Because it is this intellectualism which made the achievement of the greatest possible material profit the main objective, regardless of the nature of the means, their moral disposition and their long-rage results.

This is proved by the fact that colonialism began ever since capitalisms began its historical existence in the European societies, with its intellectualism and its measures without waiting for capitalism to reach its higher stage so that it may constitute an expression of a purely economic need. Thus the European countries divided the weaker countries among themselves in the early period of capitalism expressly and with all shamelessness. Thus to the lot of Britain fell India, Burma, S. Africa, Egypt and Sudan, etc. while France got Indo-China, Algeria, Morocco, Tunisia, Madagascar and other colonies, and Germany had sectors in W. Africa and the Pacific Islands. Similarly Italy possessed western Tripoli and Somaliland, whereas Belgium got hold of Congo countries. Russia took sectors in Asia and Holland secured Indian Islands,

The real and foremost cause of colonialism, thus, lies in the spiritual reality and moral temperament of the society and not simply in the private ownership of the means of production being allowed. Therefore if this ownership is allowed in a society which enjoys a spiritual, moral and political reality, different from the

capitalist one, then the colonialism with its capitalistic import is not an inevitable law for it.

As for the monopoly, it is also not a necessary result of the private ownership of the means of production being allowed. It is but a result of the capitalistic freedoms generally and of the principle of not allowing interference in the course of people's economic life. But in case the private ownership is put under limits and the economic activity is subjected to minute supervision aiming at preventing monopoly and a small group ruling the trade markets, the monopolisation would not find its capitalistic trodden way to annihilation and ruination.

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CHAPTER TWO

MARXISM

MARXIST CREED:

I - INTRODUCTION
II - SOCIALISM
III - COMMUNISM

I- INTRODUCTION

We had said in the beginning of this book that the economic creed means a special way of life whose champions call for organising social existence on its basis, as it is the best plan which materialises abundance and well being in the economic domain for humanity as yearned by it. As for the economic sciences, they are but organised studies in respect of the real laws which govern the society in so far as its economic life is concerned. So the creed is planning of work and a call and knowledge (science) is discovery or an effort to discover reality and a law. That is why, creed is an effective element and a factor for creation and renovation. But knowledge records economic events objectively with-out any action fraudulent or otherwise.

It is on this basis we have made discrimination between historical materialism and the Marxist Creed, in our study of Marxism. Thus the historical materialism with which we dealt in the first part of our discussion means the science of the laws

of production, its growth, development and its social results in different economic, political and ideological fields. In other words, it is the science of the Marxist economy, which gives economic explanation of the entire history in the light of productive powers. The Marxist Creed means the social system to which Marxism calls and for the materialization of which it leads humanity. Thus the position of Marxism with regard to the historical materialism in similar to that of a physicist vis-à-vis physical laws. Marxism occupies the position of announcing good news and invitation, in view of its creed.

In spite of those two different aspects of science and religion, the link between the historical materialism and the doctrinal Marxism is very strong. Because the doctrine towards which Marxism calls is in reality but a legal expression and a legislature form of a certain stage of the historical materialism and a limited part of the general historical curve which is imposed by the movement of the rising production and its laws and its inconsistencies. Thus when Marxism puts in the robes of doctrinal motive it simply expresses, thereby, the historical reality of those laws. It looks at the invitation as being an enforcement of the will of history and materialisation of the demands of the economic factor which is today, leading the human caravan towards a new stage, a stage in which the plans of the Marxist doctrine are embodied.

It was for this reason that Marx used to give his doctrine the name of scientific socialism to distinguish it from other kinds of socialism the champions expressed, therein, their suggestions and personal feelings rather than the historical necessity and the laws thereof. Therefore they formed their doctrines regardless of scientific account, the study of the productive powers and development thereof.

In the Marxist doctrine there are two stages which Marxism demands – from the doctrinal aspect to materialise successively and stresses -from historical materialistic aspect -

their historical need as well. These stages are the socialist and then the Communist one. Thus the Communist one is regarded - from the point of view of historical materialism - as the highest of the stages of the human development because this is the stage in which the history accomplishes its greatest miracle and in which the means of production have their decisive say. As for this the socialist stage which comes into being on the dissolution of the capitalistic society and replaces capitalism directly it expresses, on the one hand, the inevitable historical revolution against capitalism when it shortens and on the other hand it is considered as an essential condition to bring about the Communist society and piloting of the ship to the shore of history.

WHAT IS SOCIALISM AND COMMUNISM?

Each of the two stages - Socialism and Communism - has its own signposts which distinguishes it from the other. The main signposts and pillars of the Socialist stage are briefly as under:

Firstly, obliteration of the classism and settling its account finally by creating a classless society.

Secondly, acceptance of Proletarian as a political equipment by establishing a dictatorial government competent enough to materialize the historical message of the socialist society.

Thirdly, naturalisation of the resources of wealth and the capitalistic means of production in the country in which are the means which their owner exploits through waged work - and regarding these as being the property of all.

And fourthly, arranging the distribution on the principle of "from everyone according to his capacity and for everyone according to his work".

When the human caravan reaches the height of history or the real Communism, most of these signposts and pillars undergo

development and change. Thus Communism returns the first of the pillars of socialism that is the obliteration of the classification, while disposing off the rest of its ingredient and pillars. Thus in respect of the second pillar, Communism finally puts an end to the tale of the government and the politics on the stage of history since it deals a death blow to the government of Proletarianism and liberates the society from the clutches of the government and its restrictions. It also does not stop at nationalising the capitalistic means of production as established by socialism on the third pillar, but it goes further by nullifying private ownership of the individual means of production as well (which are those which the owner exploits himself rather than through hirelings. Similarly it disallows private ownership of consumer goods and its prices. More comprehensively speaking, it completely nullifies private ownership in both the fields, production and consumption. Similarly it brings about a decisive change in the principle on which the distribution is based under the fourth pillar, as it bases the distribution on the principle from everyone according to his capacity and for everyone according to his need.

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This is the Marxist doctrine in both of its stages, Socialist and Communist. Obviously, there are three ways to study any doctrine, which are as under:

First, criticism of the theoretical principles and bases on which the doctrine centres.

Second, study of the extent of the applicability of these principles to the doctrine which is therein.

Third, discussion of the essential idea of the doctrine with regards to its applicability and the extent to which idea was objective and had other possibility.

In our study of the Marxist doctrine we are going to adopt

these three ways together.

GENERAL CRITICISM OF THE DOCTRINE

Ever since we started studying doctrinal Marxism, in the light of the forementioned methods, we are facing the most important and serious question, in the field of doctrinal discussion i.e. the question about the basic argument whereupon the doctrine is based and which brings out, in a logical way, the call for it and its adoption and consequently its implementation and basing the life thereupon.

Certainly Marx does not rely, in justifying Socialism and Communism on particular moral values and meanings in equality, as do other Socialists, when he describes as being imaginists be-cause in his opinion moral values and meanings are but the outcome of the economic factor and social position of the powers of production. There is no sense, therefore, in making a call to social situation on a purely moral basis.

Marx only relies on the laws of historical materialism which explains movement of history in the light of the development of productive powers and different forms thereof. Thus he considers these laws the scientific basis of history and the power which brings about its successive stages in determined periodical points, in accordance with the production powers and their social form in vogue.

In this light he finds that socialism is an inevitable result of these laws which do their decisive work towards changing the last stage of the class, that is the capitalistic stage, to a classless social society. As for the question as to how the Marxist laws of historical materialism work to annul capitalism, it is explained by Marx, as we have seen before, in his analytical discussions about the capitalistic economy, wherein he tried to discover the fundamental inconsistencies which lead to capitalism, according

to the laws of historical materialism to its death and take the humanity's caravan to the socialist stage. In short, the laws of historical materialism constitute the general principle for all the stage of history, in the opinion of Marx, and the analytical bases in the Marxist economy -like the law of value and the theory of surplus value — about the effort to apply those principles to the capitalist stage and the doctrinal socialism is the necessary result for this application and doctrinal expression of the inevitable historical course of capitalism as imposed by the general laws of history.

We in our wide discussion about the historical materialism - with its laws and stages arrived at results other than these at which Marxism had arrived. We have seen clearly that historical reality of humanity does not march with the procession of historical materialism nor does its social content get support from the position of the productive powers and their inconsistencies and laws. We also realised through over study of the laws of the Marxist economy, the mistake of Marxism in the analytical bases in the light of which it explained inconsistency of capitalism from various aspects and its continuous march towards its inevitable end. Because all those inconsistencies centred round the Marxist law of value and the theory of surplus value. Consequently with the collapse of these two props the entire edifice would threaten to fall.

Even if we suppose that Marxism was right in its analytical study of the capitalistic economy, those basis only disclose the power and the consistencies which causes slow death to capitalism until it breathes its last. But they do not prove that Marxist socialism was the only substitute for capitalism in the historical course of development. But they open the way for numerous economic forms to occupy the centre of capitalism in the society, be it Marxist socialism, like the state's socialism of any of its colours, or the double economy, any of the forms of

ownership, or redistribution of the wealth among the countrymen in the framework of private ownership and other such forms which tackle crisis of capitalism, without being obliged to revert to the Marxist socialism.

In this way, doctrinal Marxism loses its scientific evidence as also the mark of historical necessity which it derived from the laws of historical materialism and the Marxist principles about history and economy. And after the doctrinal idea took off its scientific garb, it remained at the level of other doctrinal suggestions.

II—SOCIALISM

Let us now study the main elements and sign points of socialism in some detail.

The first element is to obliterate division of the society into classes, which puts an end to different kinds of struggles with which human history is replete. Because the cause of those forms of struggle in the class inconsistency which resulted from division of the society into the owners and the have-note. Consequently, when socialism came into being and turned the society into one class, there was no longer the class inconsistency, all the forms of struggle disappeared and harmony and peace prevailed for ever.

The idea in this is based on the opinion of historical material-ism which says that the economic factor is the only factor in the life of the society. This opinion has led Marxism into saying that the condition of private ownership which has divided the society into owners and the have-notes is the actual basis of the class — composition in the society. But in view of the inconsistency anti the struggle that result from this composition and as long as the socialistic society amounts private ownership and nationalises the means of production, the historical basis of the division of society into classes is blown up and it becomes impossible for the class composition to continue its existence after the disappearance of the economic conditions

whereupon it rests.

We have known, in our study of historical materialism, that the economic factor and the position of private ownership are not the only basis of all the class compositions on the stage of history, as may a class composition existed on military, political or religious bases as we have seen before. Therefore, it is not necessary historically that the division of society into classes should disappear with the end of private ownership but it is possible that a class composition may take place in the socialistic society on some other basis.

While analysing the socialist state, we had found that in view of its economic and political nature it leads to the creation of a new form of class inconsistency after dealing a death blow to the former forms of the division of the society into classes.

As for the economic nature of the socialistic stage, it is represented in the principle of distribution which is based on from every one according to his power and for every one in accordance with his work. We shall soon see, through the study of this principle, how it leads to the creation of difference afresh. Let us therefore, now take up the political nature of socialism for discussion and examination.

The basis condition for the socialistic revolutionary experiment is that it should materialise at the hands of revolutionaries and intellectuals taking its leardership. Because it is not reasonable that the Proletarian with all its elements should take the leader-ship of the revolution and direction of the experiment. It must carry on its revolutionary activity under the shadow of leadership and direction. That is why Lenin stressed, after the failure of the revolution of (1905) that the professional revolutionaries alone can form a party of Belshevik type . . . Thus we find that the revolutionary leadership of the working class was the natural property of those who call themselves professional revolutionaries in the same way the revolutionary leadership of the farmers and

the workers during the former revolutions was possessed by persons who were not from among the farmers and the workers with one difference between the two conditions and it was this that the distinction of leadership for the persons in the socialist stage does not represent economic influence. It takes place only out of ideological, revolutionary and party peculiarities. This revolutionary and party colour constituted a curtain on the socialist experiment which Eastern Europe had. It concealed the reality from the people so that they ostensibly did not discord in that revolutionary leadership of the socialist experiment, a seed of what Marxism describes as the worst form in history of the division of the society into classes. Because this leadership must have the authority in an absolute form of the socialist stage in the opinion of Marxism which considers it necessary to establish a dictatorship and central absolute authority to finally settle the account of capitalism. Lenin described the nature of the authority under the system of the party which possesses the real authority in the country during the revolution by saying:

> It is not possible for a Communist Party, in the present case of an acute civil war, to discharge its duty except when it was organised in an extremely centralised fashion and except when it was controlled by an iron (strong) system similar to the military system and except when its central apparatus was a strong one and dominant enjoying wide authority and full confidence of the members of the party.

Stalin added:

"This is the situation in regard to the system of the party, during the period of the struggle preceding materialisation of dictatorship and the same must be said, even to a greater degree, about the system of the party after dictatorship had materialised." Therefore, the socialist experiment is particularly distinct from the rest of the revolutionary experiments in that it is obliged, in the opinion of its magnates, to continue following the

revolutionary way and the absolute system of Government, within the Party and outside it, with a view to creating new socialist man, free from the ills of the class societies and their exploitive tendencies in which humanity has lived for thousands of years.

Thus it becomes necessary that the revolutionaries, the leaders, and those who circle in their party, orbit, should wield the authority in an unlimited form so that they could work the miracle and manufacture the new man.

When we reach this stage of the sequence of the socialist experiment, we find that these leaders in the party and political framework as well as their supporters, enjoy such possibilities as most of the classes did not have throughout the history and at the same time they do not miss any of the characteristics of the class, since they have gained absolute authority over all the properties and the nationalised means of production as also a political centre enabling them to benefit from these properties and to handle them according to their special interest. Besides, they have come to firmly believe that their absolute authority ensures happiness and abundance for all the people, just as the former groups had believed, which enjoyed rule during the Feudalist and Capitalist periods.

The only difference between these revolutionary rulers and the other classes about which Marxism tells us: these used to come into being and grow — in the opinion of the Marxists — in accordance with the proprietary relations existing among the people and it was the nature of these relations which determined inclusion of this person in this class or that. But as regards these new proprietors in the socialist stage it was not the nature of the ownership which determined their inclusion in the ruling class. Thus, this person or that is not included in the ruling class because he is owner of a particular property in a certain degree in the society, as Marxism supposed in respect of the former class societies, but the case is just the reverse in the Marxist socialist

society. Because this one or that enjoys special privileges or the real content of the ownership as he is included in the ruling class.

The explanation of this difference between the class in the socialist society and other classes is clear, because this class did not take birth on the economic field whereupon other classes were born in the opinion of Marxism. But it came into being and grew on the political field under a system of a certain kind, resting on special philosophical, doctrinal and national bases, that is within the revolutionary party leading the experiment. There-fore the party with it system and special limits, constitutes the factory of this ruling class.

The manifestations of this party class are confined to the unlimited privileges of administration enjoyed by the members of this class, extending from the administration of state and industrial organisations and projects of production to all walks of life which is also reflected in the great inconsistencies existing between the wages of the workers and the salaries of the employees of the party.

It is possible for us to explain, in the light of class circumstances to which the Marxist socialist stage leads, the forms of inconsistency and the struggle in the political field in the socialist world which are sometimes represented in colossal purgative operations. The privileged class under the shadow of the socialist experiment grew within the party as we have seen but on the one side it does not include the entire party and on the other it may extend beyond precincts of the party in accordance with the circumstances besetting the leadership and their demands.

It was therefore but natural that the privileged class should encounter strong opposition within the party from those persons who were not included in that class despite their belonging to the party or who were expelled from its fold and consequently they began to regard this new class composition a betrayal of the principles they proclaimed.

The privileged class also faces great opposition from outside the party whom it could exploit, by dint of the party's political reality, in the form of special privileges, certain rights, monopolisation of the administrative apparatuses and the essential (public utilities) in the country.

It appears logical - after this - that large scale purgative operations - as the Communists call them - a reflection of those circumstances and the class run consistencies. It is also natural that these operations be gigantically violent and comprehensive, according to the power class centre which is enjoyed by the ruling group in the party and the state.

To realise the extent of the violence and comprehensiveness (of the operations) it would suffice us to know that they used to continuously take place at the top of the party's entity in the same way as they did at the bottom, with a violence which exceeds that which Marxism presents as a general mark for different forms of class inconsistencies in history. The purgative operations once comprehended nine of the eleven members of the Ministry, who moved the wheel of the Soviet Government in 1936. These operations also included five of the seven chiefs of the Central Soviet Executive Committee which formulated the Constitution of 1936 and swept off forty three Secretaries of the Central organisation of the Party out of a total of fifty three, as also seventy of the eighty members of the War Committee, three of the five Marshals of the Soviet Army approximately sixty per cent of the total number of Soviet Generals and all the members of the first political office which Lenin had established after the revolution, with the exception of Stalin. Similarly the clearing operations led to the expulsion of more than two million members of the party. These operations also led to what happened in 1939 as the result of which two million members of the official party were expelled of a total number of two million and a half. Thus the number of the expelled members

of the Communist Party was almost equal to the entire Party itself.

By this we do not aim at publishing the ruling apparatus in the Socialist Society – nor does publicity behove this book. All that we aim at is to analyse the Socialist stage scientifically to see how dictatorial materialism, by its very nature, leads to class circumstances which give birth to horrible forms of struggle. And Lo! The very experiment which came to efface class system set it up afresh.

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The dictatorial authority which is the second pillar in the Socialist stage is not necessary for settling the account of Capitalism only, as believed by Marxism because it regards it a temporary necessity which lasts until all the spiritual, ideological and social characteristics of Capitalism are wiped out. It only constitutes an expression of a deeper necessity in the nature of the Marxist Socialism which believes in the necessity of economic controlled planning in all the branches of the economic activity in life. Because the situation of such a planning and implementation thereof demands powerful authority which is not subjected to supervision and which enjoys great possibilities so that it could hold with an iron hand all the public utilities in the country and distribute them in accordance with a comprehensive and minutes plan. Thus the central economic planning prescribes the political authority a dictatorial nature to a large extent and not the mission of clearing the atmosphere from a legacy of Capitalism. It alone prescribes this political colour of government.

* * * * *

After this we reach the nationalisation as being the third

pillar of the Socialist stage.

The scientific notion about nationalisation is based on the inconsistencies of the surplus value wherefrom comes about the private ownership of the means of production, in the opinion of Marx, because these inconsistencies go on piling up until the nationalisation of all the means of production unavoidable become historical necessity.

We have already discussed these so-called inconsistencies and seen how they are based on wrong analytical bases. It is but natural that the conclusions be wrong when the bases of the analysis were misleading and wrong.

As for the doctrinal notion about nationalisation, it is summed up in obliterating private ownership and crowning all with the ownership of the means of production in the country so that everyone, being a member of the entire society, becomes owner of all the riches of the country as were the others.

But this notion clashes with a reality that is the political reality of the Socialist stage which is embodied in the class which enjoys absolute dictatorial rule in the apparatuses of the Party and the State.

In such a circumstance it is not sufficient to annul private ownership legally and announcement be made about the wealth being the property of all so that all may really enjoy it· and find its real content in their life. But the nature of the political situation would make the lot of all legal only by letting the ruling class enjoy the real content of the ownership which is represented in its absolute domination over the destinies and riches of the country. In this way this class obtains the same opportunities which the monopolist Capitalists used to enjoy in the Capitalist society, because it stands behind every deed of the State and monopolises the right of representing the class —less society and disposing its properties and — in that moment — becomes more powerful than any other Capitalist to steal off the surplus value. What are

then the scientific guarantees in this regard?

Borrowing from Marxism its language we could say: The nationalisation in the Marxistic Socialist Society brings forth an inconsistency between the socialist ownership for all (the people) and the real substance of the ownership which the ruling class enjoys. Because the ownership in its real substance is nothing but authority over the wealth and power to enjoy it with different methods. This is the substance which is enjoyed by the political powers which dominate all the entities of the society and is reflected on the legal field in the form of privileges and rights which are in reality a false cover and a legal translation of the real substance of ownership. But this new owner in the Marxist Socialist Society differs from any former owner in one point and it is this that he cannot admit his ownership legally as it contradicts his political stand. Thus Socialism carries — because of its political nature - the seed of this new ownership and creates him across its experiment although at the same time makes it incumbent on him to deny his real role in the economic life and makes him more shameful than the Capitalist who used to declare, with all impudence, about his private ownership.

The nationalisation in Marxist Socialism is not a unique event in history as there have been previous experiments with the idea of nationalisation in history. Many old States had nationalised all the ways of production and thereby earned gains quite similar to those secured by the Marxist Socialism in its experiment. Thus in some Hellenistic countries and especially in Egypt the Governments followed the principle of nationalisation and subjected the production and the exchange to its control taking over the administration of most of the branches of production with the result that this system secured for the Government great benefits. But in cases where it was enforced in the framework of Pharaonic absolute authority, its substance could not remain hidden. Because the nationalisation carried out under the shadow of an absolute authority which

creates collective ownership to expand the production, cannot actually lead but to the authority itself becoming dominate and controlling the nationalised properties and that is why these appeared in the old experiment, treachery – on the part of the employers and despotism on the part of the authority which used to be embodied in the person of the king so that the king jumped up to the status of a god and all the gigantic powers began to spend all their properties on this ruler god to serve his desires, such as the building of temples, palaces and graves.

It was not merely by chance that the experiment of nationalisation in the most ancient Pharaonic time was accompanied with the same phenomena as attend the Marxist experiment of nationalisation in the modern times, such as rapid progress in the production and the authority enjoying power which strengthens and grows in a colossal form and thereafter taking away and having despotic control over the nationalised wealth. Thus the production has increased under the shadow of modern experiment of nationalisation as it did under the shadow of Pharaonic experiment. Because dependent exploitation in production always results in temporary rapid progress on the production movement. In both the experiments nationalisation grew under the shadow of a supreme authority, knowing no bounds because when only increase in production is aimed at by nationalisation, it requires such an iron authority indeed.

In both the experiments this also resulted in the authority becoming terrible and enjoying of the real substance of ownership because nationalisation was not based on a spiritual base or contentment with man's moral values. It was based on a material-ism only to materialise greatest production. It is but natural that the authority should not find consistency between this material objective and the privileges and enjoyment in which it makes itself roll. It is also natural that the ruling apparatus should not confirm the general ownership practically

except within the limits of the material incentive which makes it increase and promote production.

It does appear strange, after this, that we find the State's apparatus in the old experiment, crying about the treachery of the employees and their getting rich at the cost of public properties, while we find Stalin, in the modern experiment, being obliged to admit that high employees in the State and the Party, availing the opportunity of their State being engaged in the recent war, had accumulated money and riches, so much so that he published it in a circular letter to all the countrymen.

Thus the semblance between the two socialist experiments is very clear, both in appearance and results, in spite of the difference in their civil conditions and the forms in the production. This indicates that the substance in both the experiments is one and the same, however different the colours and frameworks might be.

Thus we come to know that every experiment of nationalisation produces the same results if it was done in the same political framework of the Marxist experiments the framework of absolute authority, and the factual justification for it was, in the opinion of the leaders of the experiment, was the same justification on which leaders of Marxism base their experiment, which is growth of production which constitutes the incentive power of history, with the passage of time, in the meanings of historical materialism.

* * * * *

As for the last pillar of the Socialist stage, it is - as described earlier, the principle of distribution which says, "from everyone according to his power and for everyone in accordance with his work."

This principle depends, from scientific point of view, on

the laws of historical materialism. Because after becoming one class in accordance with laws of modern Socialism, the society does not remain comprised of two classes, one that of the workers and the other that of the owners and it becomes necessary for every individual to work so that he may live, just as the Marxist law of value saying that work is the basis of the value, gives to every worker a share in the production commensurate with the amount of the work he puts in and thus the distribution proceeds on the principle, from everyone according to his power and for everyone in accordance with his work.

This principle begins to contradict the classless nature of socialism ever since it is enforced. Because the individuals differ from one another in their work due to the difference in their capabilities, nature of the work and the degree of its complication. Thus, for example, there is a worker who cannot work for six hours whereas the other worker possessing a stronger stamina can work for ten hours every day; and there is a talented worker gifted with genius and intelligence which enable him to introduce improvements in the method of production and therefore he produces more than others do. On the other hand, there is another worker who is not lucky in this regard and is born to follow rather than innovate. Similarly there may be a technical and trained worker capable of producing minute electrical equipments against another worker who is a simple one good only to carry loads. There may be another one working in political field on whose work may depend destiny of the entire country.

The difference in these works leads to the difference in the values created by these works.

These colours (forms) resulting from the difference in the works themselves or the values created thereby are not due to a particular social reality. But Marxism itself admits about it as it divides work into two, simple and compound believing that the value of an hour's compound and greatly complicated work may

be many times more than that of an hour's simple work.

The socialist society, while facing this problem, finds only two alternative ways before it to solve the issue.

One, to adhere to the principle of distribution which says: "for everyone according to his work" and therefore distribute the production among the individuals with different degrees, thereby creating class differences once again and thus the socialist society gives birth to class constitution in a new way.

Two, that the socialist society may borrow from the Capitalist on its method of taking away the surplus value according to the Marx opinion so that the wages of all the individuals be equalised.

The theory and the application (adaptation) take two different direction in the solution of this problem.

Thus the application – or the reality of the socialist society existing today – adopts the first way to solve the problem, which involves the society in class inconsistencies anew and that is why we find that the proposition between the low and the rising in-come in Russia is said to reach 5% and 1.5% according to different estimates. The Socialist leaders have found that it is practically impossible to implement absolute equality and to bring down the work of scholars, politicians and the military men to the level of the simple work because it freezes mental growth and paralyses technical and mental life, making most of the people turning to insignificant works, as long as the wage is the same, irrespective of the disparity and the complication involved therein. It is for this reason that disparities and inconsistencies grew in the socialist experiment, which were afterwards, deepened by the ruling authorities, according to its political nature. Therefore it established the secret Police class which was given great privileges for its spying activities. It established this (Police Force) to support its dictatorial entity. The result was that the society at last found itself faced with the same reality which socialism promised to

help it get rid of.

As for the direction of the theory for the solution of the problem, an indication is found to renew this direction in the book *Anti-Dühring,* when Engels presented the problem and replied thereto by saying :

How could, then, the problem of payment of big wages for the compound work be solved? The entire question is important. In the society of specialist producers, the individuals or their families stand the cost of the training of a competent worker and hence the price paid for competent working power ensues from the individuals themselves. Thus a skilled slave is sold at a high price and one who earns the wages and the skilled (workers) are paid high prices. It is the society itself which bears this cost, in case it is organised according to the socialist system. So it is the society which enjoys the fruit, that is the high value produced by the compound work, increased wage being in demand of the worker.

This theoretic solution of the problem which Engels puts forward, supposes that the high values, which distinguish compound work from simple work, counterbalance the expenses of the training of the competent work in the compound work. In view of the fact that in a capitalist society an individual bears the expenses of his training himself, he is entitled to those values which result from his training. But in a socialist society state itself bears the expenses incurred on his training and therefore it is entitled to the high values of the compound work, exclusively and in that case the technical work has no right to demand a wage more than that of a simple worker.

But this assumption is inconsistent with the actual fact as the high values which a political and military worker obtains in

1. *Anti-Dühring,* (Arabic transl.), vol.* p.96

a society of specialist producers in the capitalist society very much exceed the expenses incurred on his studies in political and military sciences as explained earlier.

Besides this, Engels has not put forward his solution of the problem in an exact from which may be consonant with the so-called scientific bases in the Marxist economy. Engels forgot that the value of the commodity produced by a trained technical worker which he creates does not include cost of his training and the expenses incurred on his studies. What determines its value is only the amount of work practically involved in the production thereof in addition to the amount of work spent by the worker during studies and the training. Thus it is possible that the worker may spend the years of work in training costing him one thousand Dīnars. The cost of this training, that is one thousand Dīnar, would represent the amount of work stored therein, which is less than the work of ten years. Thus the cost of training, in this example, becomes less than the value in the creation of which the work of the worker alone during his training contributed like the cost of renewal of the power of work which is less than the value which is created by the work itself, as believed and the surplus value theory.

Therefore, what would Engels do when the amount of work represented in the expenses incurred on the training of the work, becomes less than the amount of work spent by the worker during the training. The state in such a case has no right –on the basis of Marxist economy – to pluck fruit of the training and snatch from the worker the value which he had created in the commodity with his work during the training, for the reason that it had paid up the cost of training. Because the additional value enjoyed (possessed) by the production of the technical worker does not represent the expenses of his training and cost of his studies but it represents the work completed by the worker during the studies. So if this work was more than the amount of work represented in

the expenses of training, the worker was entitled to increase wage for his technical production.

Engels missed (ignored) another thing also and that is this that complication of work does not always spring from training but it sometimes comes about because of natural talents found in the worker enabling him to produce in an hour of work what could not be produced collectively except in two hours. Thus he creates in one hour a value which others do in two hours, on account of his natural competence and not because of any previous studies. So should this worker get double that which others do — in which case the socialist society would be creating differences and inconsistencies — or he be equalised with others, being not given except half of the value created by him, whereby the socialist society would be committing theft of the surplus value?!

To sum up, the Government in the Marxist Socialist stage has only two alternatives before it: either to implement the theory as imposed by the Marxist law of value and therefore distribute to everyone according to his work and thereby create the seed of class inconsistency anew, or it should elevate from the theory in so far as the implementation was concerned and equalise the simple work with the compound one and an ordinary worker with a talented one and thereby take away from the talented worker the surplus value whereby he is superior to an ordinary one, quite as the capitalist used to do to the credit of the historical materialism.

III— COMMUNISM

Having completed the study of the socialist stage we reach the final stage in which communist society takes birth and humanity is resurrected to the earthly Paradise promised by the historical materialism's prophethood.

Communism has two main pillars:

First: Wiping out of private ownership not only in the field of capitalistic production but in the field of production generally, and also in the field of consumption. Thus it nationalises all the means of production and all the consumer goods.

Second: Elimination of political authority, and finally liberation of the society from the Government.

As for the wiping out of private ownership in all the fields, it does not derive its existence in the doctrine from the scientific law of value, as the nationalisation of the means of capitalist production were based on the theory of surplus value and the Marxist law of value. The idea in generalising nationalisation is based on the assumption that the society attains a high degree of richness thanks to the Socialist System as the production powers also grow enormously and therefore no room is left for private ownership of the consumer goods, not to speak of the ownership of the means of production because every individual in the Socialist Society would get what he needed and longed to

consume it any time he liked. Therefore, what was the need for private ownership? !

On this basis the principle of distribution in the socialist society is based on the maxim of "Everyone is given according to his need and not according to his work", that is, everyone is given only as much as satisfied his want and met all his demands because the wealth possessed by the society could satisfy all the wants .. .

We know no hypothesis more imaginative and wider than this that every man in the socialist society is able to satisfy all his desires and needs entirely and completely in the same way as he fulfils his needs of water and air, so that there may be no scarcity nor crowding over the commodities nor any need to have any thing exclusively.

It appears from this just as Communism works wonders in human personality, turning the people into (Amaleqas) in production despite disappearance of personal impulses and ego under the shadow of nationalisation, it also works wonder with nature itself by stripping it of covetousness and parsimony and bestowing it with gracious spirit which always gives in generosity all that is demanded by the colossal production such as resources, mines and rivers.

Unfortunately, the leaders of the Marxist experiment tried to create the promised Paradise on earth but they failed in doing so with the result that the experiment remained preponderating between Socialism and Communism till it expressed publicly its inability to materialise communism in the same way as does every experiment which tries to adopt and imaginary direction inconsistent with human nature. Thus the socialist revolution took, in the beginning, a purely socialist direction when Lenin endeavoured that everything be common (circulating) among all. Therefore, he wrenched loud from its owners and stripped the farmers of their individual means of production which led the

farmers to revolt and call a strike and stop production. Consequently the famine took place which shook the very existence of the country and obliged the authorities to refrain from their plan so that they restored proprietary rights to the farmers and the country regained its natural condition till came the year (28-30) when another revolution took place aimed at taking away the ownership anew. Consequently, the farmers resumed their revolution and strike whereupon the government carried out a large-scale killing and banishment of the people and the prisons were filled with the arrested people to the capacity, the number of those killed reaching – it is said – one hundred thousand, according to the Communist reports and many times the number, according to the reports of the enemies. The famine resulting from the strike and disturbance in 1932 took a toll of six million people according to the confession of the government itself. Therefore, the authority was obliged to withdraw and it decided to grant the farmer some land, a hut and some cattle to benefit therefrom, on the condition that the real ownership belonged to the state and the farmer joined the society of (Communist Agricultural Kolkhoz) which is looked after by the state which can expel any member therefrom whenever it liked.

* * * * *

As for the second pillar of Communism (disappearance of government) it is the most curious thing in Communism. The idea in the matter is based on the opinion of historical materialism about the description of the government as being an offspring the class inconsistency as it is an organisation which is created by the owners class to make the working class subservient to it. In the light of this description, therefore, there remains no justification for the government in a classless society, after it had got rid of all the vestiges and remains of being divided into classes and it becomes but natural that the

government should vanish consequent upon disappearance of its historical basis.

We have a right to put a question about this change which turns the history from society of state into one free from it, from the socialist stage to the communist one: as to how this social change takes place?! And whether it occurs through a revolutionary way?! So that the society changes from being socialist to the communist in a decisive moment as it changed from capitalist to socialist? ! Or the change takes place in a gradual way so that the state withers and shrinks until it vanishes? !

So if the change was revolutionary and simultaneously and proletarianism was annihilated by way of revolution, then which revolutionary class was it at whose hands this change would be completed?! We have been told by Marxism that a social revolution against a government always sprouts from the class which is not represented by that government. In the light of this, therefore, a revolutionary change towards communism must be materialised at the hands of the class not represented by the socialist government that is the proletarian class. So does Marxism wants to tell us that the communist revolution takes place at the hands of capitalists, for example?!

If the change from socialism and the disappearance of government was gradual, then it contradicted — before anything else — the norms of dialectics on which Marxism is based. Because the law of quantity and quality in Dialectics stresses that qualitative changes are not gradual but they take place in a sudden way, jumping from one state to another. On the basis of this law, Marxism believed in the necessity of revolution in the beginning of every historical stage being a simultaneous change. Then how did this law become null and void at the time of the society's change from socialism to communism?

The peaceful gradual change from the socialist stage to the communist one is inconsistent with the laws of dialectic as it

contradicts the nature of things also. Because how could we imagine that a government in the socialist society gradually relinquishes the authority and shrinks itself until it deals a death blow to itself, while every other government on the face of earth adheres to its centre and defends its political existence till the last moment of its life? ! So can there be anything more strange than this gradual shrinking which the government itself offers to materialise and thereby bestows its own life for the sake of the society's development! But is there something that is more distant than this from the nature of the socialist stage and the real experiment embodied in the world today?! Since we have learnt that one of the things essential for the socialist stage is the establishment of a dictatorial government with absolute power. How does this absolute dictatorship, then, become a prelude for the disappearance and destruction of the government finally?! And how could the fact of the authority becoming serious and arbitrary pave the way for its disappearance and concealment?!!

Lastly, let us lean towards Marxism in its notions and suppose that the miracle has materialised and that the communist society has come into being with everyone working according to his power and getting according to his needs. Does then the society not need an authority that may determine this need and conciliate between the conflicting needs in case they centred round one commodity and which may also regulate work and divide it among various branches of production.

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IQTIṢĀDUNĀ

our economics

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WORLD ORGANIZATION FOR ISLAMIC SERVICES

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OUR ECONOMICS

AN OBJECTIVE STUDY CONSISTING OF
THE EXAMINATION AND CRITICISM OF
THE ECONOMIC DOCTRINES OF MARXISM,
CAPITALISM AND ISLAM AS CONCERNS
THE FUNDAMENTALS AND DETAILS OF
THEIR IDEAS

Muhammad Baqir aṣ-Ṣadr

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In the Name of Allãh,
The All-compassionate, The All-merciful

Praise belongs to Allãh, the Lord of all being;
the All-compassionate, the All-merciful;
the Master of the Day of Judgement;
Thee only we serve, and to Thee alone we pray
for succour;
Guide us in the straight path;
the path of those whom Thou hast blessed,
not of those against whom Thou art wrathful,
nor of those who are astray.

* * * * *

O' Allãh! send your blessings to the head of
your messengers and the last of
your prophets,
Muhammad and his pure and cleansed progeny.
Also send your blessings to all your
prophets and envoys.

CONTENTS

CHAPTER TWO

OUR ECONOMY: ITS MAIN SIGN-POSTS

TRANSLITERATION

ARABIC LETTERS

Symbol	Transliteration	Symbol	Transliteraion
ء	**’**	ك	**k**
ب	**b**	ل	**l**
ت	**t**	م	**m**
ث	**th**	ن	**n**
ج	**j**	ه	**h**
ح	**ḥ**	و	**w**
خ	**kh**	ي	**y**
د	**d**	ة	**ah, at** (construct state)
ذ	**dh**		
ر	**r**	ال	article **al-** and **’l** (even before the antepalatals)
ز	**z**		
س	**s**		
ش	**sh**	**<u>Long Vowels</u>**	
ص	**ṣ**	آ	**ã**
ض	**ḍ**	و	**ũ**
ط	**ṭ**	ي	**ī**
ظ	**ẓ**		
ع	**‘**	**<u>Short Vowels</u>**	
غ	**gh**		**a**
ف	**f**		**u**
ق	**q**		**i**

تصدير

١- العلامة الكبير الحجّة، والفقيه المجدّد، والمفكّر الاسلامي العبقريّ السيّد محمّد باقر الصّدر (١٣٥٣ / ١٩٣٥ - ١٤٠٠ / ١٩٨٠) تغمدّه الله برحمته، بآثاره الّتي خلّفها للمسلمين عامّتهم ومفكّريهم، وبحياته الحافلة بجهوده وجهاده الّتي قصّرتها الأيدي الأثيمة - بكلّ أسف - لأشهر وأعرف، وأوسع جانبا، وأعمق دراسة، من أن نؤرّخه في كلمة قصيرة مقتضبة نقدم بها التّرجمة الانجليزية لأثره الشّهير (اقتصادنا).

٢- سبق وأنّ عرّفنا قرّاءنا الكرام بأهمّ آثار السّيّد الصّدر في فاتحة التّرجمة الانجليزيّة لكتاب (المرسل. الرّسول. الرّسالة) واليوم اذ ننشر - بعون الله وتسديده - التّرجمة الانجليزيّة (لاقتصادنا) نجد أنفسنا مضطرّين الى أن نلفت انتباه قرائنا الكرام الى ما جاء في مقدّمة (اقتصادنا) نفسه، حيث عرض السّيّد الصّدر في نهايتها نقاطا ستّاً رأى من الضّروريّ أن تلحظ، وأن تلحظ بعناية تامّة.

ولا نزيد على ما قاله المؤلف نفسه رضي الله عنه، شيئا سوى أنّ هذه النّقاط الست الّتي وضعها المؤلّف أمام عينه حينما ألّف الكتاب والّتي أكّد على قرّائه أن يضعوها أمام أعينهم حينما يقرأون الكتاب ويدرسون بحوثه كانت نفس هذه النّقاط

ماثلة أمام أعيننا حينما أقدمنا على نشر الترجمة الانجليزية للكتاب، و نؤكّد على الاهتمام والعناية بها بمثل ما أكّد به المؤلّف، رحمه‌الله.

٣- انّ التّرجمة الانجليزيّة لكتاب (اقتصادنا) قامت بها مؤسّسة (پير محمّد-ابراهيم) الباكستانيّة، باقتراح منّا، و بعد أن تمتّ التّرجمة أحالتها الينا، ولم يكن عندنا، بادئ الأمر من بواعث الثقة والاطمئنان الى صحّة التّرجمة و سلامة النّقل ما يدعونا الى أن نسارع الى نشرها؛ فبقيت نسخة التّرجمة عندنا الى أن عثرنا على من عهدنا اليه مراجعتها و تلافي ما يراه من نقص فيها، و بعد ذلك عثرنا على نقائص، ولم يكن ذلك عن طريق المراجعة المستوعبة، وكان من حسن الحظّ أن وجدنا من يفقه اللّغتين العربيّة والانجليزيّة، و له اختصاص بالدّراسات الاقتصادية فقرأ التّرجمة الانجليزيّة و قارنها بالنّصّ العربيّ، و تلافي ما أمكنه تلافيه من نقائص وأخطاء كلّ ذلك حسب اجتهاده ورأيه.

وهنا وجدنا أنفسنا قد وصلنا إلى مرحلة كانت نهاية الشوط لما نملكه من امكانيات و ما نقدر عليه من جهد وسعي، و بذلك يصح منا أن نسعى، بعون الله، إلى نشر التّرجمة ولا يصحّ أن يوصف عملنا بأنّه مجازفة كان التريّث خيرا منه. و مع كلّ هذا فإنّنا نفتح صدورنا لأيّ نقد و ملاحظة يردنا، و نرّحب بأيّ اقتراح يعود الى تحسين عملنا، و نأمل أن نتلافى ما نجده من نواقص و أخطاء فيما نستقبله، بتوفيق الله سبحانه.

و نرجو الله سبحانه أن يجعل في التّرجمة الانجليزيّة لهذا الكتاب كلّ خير و بركة، و أن يعمّ به النّفع، كما صنع بأصله العربيّ و أن يجعل عملنا خالصا لوجهه الكريم، انّه نعم المولى و نعم النّصير.

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PUBLISHER'S FOREWORD

1. The great Islamic scholar, regenerating jurist and thinker of genius, al-ʿAllãmah as-Sayyid Muhammad Bãqir aṣ-Ṣadr (1353/1935—1400/1980) may Allãh encompass him with His Mercy, because of the works which he bequeathed to the Muslims, both the ordinary and the educated among them, and because of his life, which was filled with effort and striving, and which was cut short at the hands of criminals, he is too famous and well-known for us to give his biography in this brief preface which we are giving to the English translation of his celebrated book, *Iqtiṣãduna,* the Islamic System of Economics.

2. In the preface to the English translation of *The Revealer, The Messenger, The Message* we have introduced the works of as-Sayyid aṣ-Ṣadr to our respected readers. And now that we are publishing the English translation of *Iqtiṣãduna* we find ourselves compelled to turn the attention of our readers to the preface of *Iqtiṣãduna* itself, where as-Sayyid aṣ-Ṣadr has mentioned six points which he deemed necessary for the readers to observe, and that also carefully.

We do not wish to say anything more than what the author has mentioned himself, except that these six points, which he introduced while writing the book and emphasized to his readers to keep in their mind while reading the book and studying its discussions, the same six points were in our mind also when we

decided to publish its English translation. And we emphasize, alongwith the author, the careful observation of these points.

3. The English translation of *Iqtiṣãduna* was prepared by the Peermaḥomed Ebrahim Trust of Pakistan at our instigation. After completing the translation it was submitted to us, but at that time we did not have the means to be sure and satisfied about its authenticity. So it remained with us until we found the person who could check and make up the defects in the translation. Then again just by the way we were confronted with some defects, and fortunately we found a person who was familiar with both the Arabic and English languages with qualifications in economical studies. He compared the translation with Arabic version and corrected, according to his own views, as much as he could.

At this point we reached the utmost stage of our abilities and facilities for correction of the translation, and so we deemed it right to publish it, by the help of Allãh; and thus it cannot be said that our efforts were reckless and it would have been better to delay the publication. After all these efforts we shall gladly accept any criticism or observation, and welcome any suggestion to improve our work. We hope to correct the defects and mistakes with which we may be confronted in future.

We ask Allãh, the Glorified, to bless the English translation of this book and to generalize its benefit as He did for the original Arabic version. And may He accept our work sincerely for His Holy Self. He is the best Master and the best Helper.

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Volume One

Part Two

CHAPTER ONE

C A P I T A L I S M

INTRODUCTION

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INTRODUCTION

Just as the Marxist economy is divided into science and doctrine in the same vary the capitalist economy is also divisible into two. Thus it has a scientific aspect wherein capitalism tries to explain the course of economic life and its events in an objective way based on stability and analysis. There is also in it the doctrinal aspect the materialisation whereof capitalism calls for and adopts a call therefore.

These two aspects or sides of the capitalistic economy have got mixed up in many discussions and ideas despite the fact that they are two different aspects, each one of them having its peculiar nature, basis and measure. Consequently if we try to give one of the two aspects the distinctive character of the other, thus regarding the scientific laws a pure doctrine, or allotting the scientific trait to the doctrine, we would certainly be caught on a great mistake, as we shall soon see.

Although Capitalism agrees with Marxism in being divided into two aspects, scientific and doctrinal, yet the relationship

between the science of Capitalistic economy and the Capitalistic doctrine the economy differs substantially from that between the scientific side of Marxism and the doctrinal one, that is between the historical materialism on the one hand and Socialism and Communism, on the other. It is this difference that will make our method of discussion about capitalism different from that of our discussion about Marxism, as would become clear in the course of this chapter (About Capitalism).

In the following, we will discuss the capitalistic economy in its main lines and thereafter we will deal with the relationship of the Capitalist doctrine with the scientific aspect of Capitalism and finally we will study capitalism in the light of its doctrinal notions whereupon it is based.

I — DOCTRINAL CAPITALISM IN ITS MAIN FRAME-WORKS

The capitalistic doctrine is based on three main elements which constitute its peculiar organic entity which distinguishes it from other doctrinal entities. These elements are:

Firstly, adherence to the principle of private ownership in an unlimited form. Thus, while the general rule in Marxist doctrine was the collective ownership, not to be forsaken except in an exceptional case, the question is entirely reverse in the Capitalist doctrine. Thus private ownership, under this doctrine, constitutes the general rule extending to all the fields and different fields of wealth, which could not be violated except under exceptional circumstances, obliging, at times, nationalization of this project or that and making it a property of the State. Therefore so long as the collective experiment did not prove the necessity of nationalization of any project, private ownership remained the general rule in force.

On this basis, capitalism believes in the freedom of ownership (possession) and lets private ownership raid all elements of production such as land, tools, buildings, mines and other forms of wealth and the law in the capitalist society guarantees safety of private ownership and preservation thereof by the proprietor.

Secondly, opening the way for every individual to exploit

his ownership and possibilities as he likes and to allow him to develop his wealth with different means and methods he can. If he owned, for instance, an agricultural land, he was entitled to exploit it himself in any way of exploitation. He had also the right to hire it out to another person and make such conditions to him as he might deem important. He had similarly the right of having it unexploited.

This capitalist freedom which the doctrinal capitalism grants to the owner aims at making the individual the only worker in the economic movement as no one was better aware of his real benefits than he himself, nor was anyone else more competent to gain them. And nobody could be in such a position unless he was provided freedom in the field of exploitation and the preparation thereof and as long as interference from any side, Government or otherwise, was not removed from his way. In this way, therefore, everyone had a sufficient opportunity to choose the method of exploiting his wealth, the profession he should adopt and the methods which he might adopt for realizing greatest possible amount of wealth.

Thirdly, guaranteeing freedom of consumption in the same way as freedom of exploitation is guaranteed. Thus every individual enjoyed the freedom to spend his money and wealth as he liked, to satisfy his desires and meet his needs. He was free to choose whatever the goods he liked for consumption and he could not be prevented therefrom by the Government banning, at times, the consumption of certain commodities for considerations relating to public interests, such as the consumption of an anaesthetic.

So these are the main signposts of the Capitalist doctrine, which could be summed up in three freedoms:

Freedom of ownership, freedom of exploitation and freedom of consumption.

At the very first sight there appears the glaring inconsistency between the capitalist doctrine and the Marxist doctrine, which lays down collective ownership at the principle instead of the individual ownership and ends the Capitalist freedoms based on private ownership and replaces them with the State's control over all the utilities of the economic life.

It is generally said that the variance between the two doctrines, the Capitalist and the Marxist, in their signposts, reflects the difference existing in the nature of the view with which they look at the individual and the society because the Capitalist doctrine is an individual doctrine, which sanctifies personal impulses and regards the individual as the pivot for whose interest it is incumbent on the doctrine to work and whose interests it must guarantee. But the Marxist doctrine is a collective one which rejects personal impulses and the ego, extirpates individual into the society and adopts the society as a pivot for him. For this purpose it does not recognise individual freedoms but ignores them for the sake of the fundamental issue, that is the issue of the society as a whole.

As a matter of fact both the doctrines rest on individual view and depends on personal impulses and ego. Thus Capitalism respects fortunate individual's ego by ensuring him freedom of exploitation and activity in different fields unmindful of the injustice and the evading that might result from the freedom let loose for that individual so long as others enjoyed the freedom in principle, as did the exploiting individual and while Capitalism provides fully for the satisfaction of the personal impulses of the fortunate ones and promotes their propensity, Marxists turns to other individuals who are not fortunate enough to have those opportunities. Its doctrinal call, therefore, centres round inciting personal impulses and their ago and the satisfaction thereof. It tries to promote these impulses with different methods, regarding it the power used by history for its development, until it is able

to exploit them in a revolutionary way. It explains to those with whom it comes into contact that the others steal their efforts and wealth and therefore it was not possible for them to confirm (accept) this theft in any case as it constituted a blatant aggression on their peculiar (private) entity.

Thus we find that the fuel on which the Marxist doctrine depends is but these personal and individual impulses which Capitalism adopts. Thus both the doctrines adopt (adhere to) satisfaction of personal impulses and promote them. They only differ in the matter of the kind of the individuals whose personal impulses and ago respond to this doctrine or that.

As for the doctrine which deserves to be described as being a collective doctrine, it is one which depends on a fuel of another kind, that is, on powers other than the ago and personel impulses.

The collective doctrine is that which cultivates in every individual a deep consciousness about the responsibility towards the society and its interests and which makes it incumbent on him to forego something of the fruit (benefits) of his work and efforts and his private wealth for -the sake of the society and others, not because he had stolen others' property and consequently they had risen against him to regain their own rights but because he feels that this was a part of his duty and on expression of the values he believes in.

Indeed the collective doctrine is that which safeguards rights of others and their welfare not by raising their personal impulses by collective impulses in all and by letting springs of good come forth in their minds. In the future discussions would see what that doctrine is.

* * * * *

II — DOCTRINAL CAPITALISM IS NOT A PRODUCT OF THE SCIENTIFIC LAWS

At the dawn of the scientific history of Economy, when magnates of the classic natural economy were sounding the needs of this science and laying its first foundation, two notions pervaded the economic ideology.

First: The economic life proceeds in accordance with limited natural powers, which dominate all economic entities of the society as do various aspects of the existence in accordance with the different natural powers. The scientific duty vis-à-vis these powers which dominate economic life constitutes in discovering its general laws and fundamental rules which can appropriately explain different economic phenomena and events.

The second one is this that those natural laws, which the science of economy must discover, constitute a guarantee for human happiness if they are enforced in a free atmosphere and when all the members of the society are enabled to enjoy the capitalistic freedoms that is freedoms of ownership, exploitation and consumption.

The first notion has laid the scientific seed of the capitalist economy while the second one has laid its doctrinal seed. But the two notions or the seeds are closely linked so that the economic thinkers at that time thought that restricting freedom of the

individuals and interference in the economic affairs by the state meant standing in the way of Nature and its laws which ensured affluence to humanity as also the solution of all its problems. Consequently, any attempt to make any of the capitalistic freedom vain is regarded a crime against the just natural laws. Thus this belief led them into saying that those good laws themselves impose the capitalist doctrine and make essential for the society to guarantee the capitalist freedoms.

But this sort of thinking now appears to be ridiculous and childish to a great extent because revolt against a natural scientific law does not mean that a crime had been committed against that law, but it shows the wrongfulness of the law itself and deprives it of being scientific and objective. Because natural laws never fail under the shadow of conditions and circumstances therefore and it is only the conditions and circumstances that change. It is, therefore, a mistake to regard the Capitalist freedoms as an expression of natural laws and to consider their violation as a crime against them. Thus the natural economic laws work uninterrupted, in all conditions irrespective of the degree of the freedom enjoyed by individuals in the fields of right of ownership, exploitation and consumption. Yes, sometimes it does happen that the effect of these laws differs, in accordance with the difference of the conditions and circumstances under the shadow of which they work in the same way in which the laws of physics differ in the matter of their effects and results with the difference in their conditions and circumstances.

It is, therefore, essential to study Capitalist freedoms, not because they were scientific necessities made incumbent by natural laws from the view point of the Capitalists in order that they may have thereby scientific character. But they should be studied on the basis of the extent to which they afford happiness and respect to man and values and ideals to the society. And this is the basis adopted by the scholars of the capitalist economy

from the study of the doctrinal capitalism.

In the light of this we can understand the essential difference, to which we had hinted in the beginning of this chapter, between Marxism and Capitalism, because the relationship between the scientific and doctrinal aspects of Marxism differs basically from that existing between scientific and doctrinal economics under Capitalism. Because the doctrinal Marxism which is represented in Socialism and Communism, is regarded a necessary result of the laws of historical materialism constituting an expression of history's natural laws, from the view point of Marxism. So if the historical materialism was right in the matter of explanation of history, it proved (demonstrated) the doctrinal aspect of Marxism. Consequently the study of the scientific aspect of Marxism is considered as a basis for the study of the doctrinal aspect thereof and an essential condition for giving a verdict in favour of the Marxist doctrine or against it. It is not possible for a doctrinal (religious) investigator (scholar) to criticise Socialism and Communism independently of its scientific basis, the historical materialism.

As for the doctrinal Capitalism, it is not the result of science of economy set up by the Capitalists nor is its destiny linked with the extent of the success of the scientific aspect of capitalism in explaining the objective reality. The doctrinal depends but on moral and certain practical values and ideas, which must alone be regarded the criterion for giving verdict about the capitalist doctrine.

Thus it becomes clear that our attitude towards Marxism, while we believe in an economic doctrine distinct from capitalism and Marxism, is different from our attitude vis-à-vis capitalism. So in respect of Marxism we are face to face with an economic doctrine which thinks that it centres round the laws of the science of history (Historical materialism). It is, therefore, necessary for the criticism of this doctrine, to take under discussion and study

those so-called scientific laws. That is why we presented historical materialism giving its meanings and stages, as a prelude to pass a judgement about the Marxist doctrine itself. As for our attitude towards the doctrinal Marxism, i.e., the Capitalist freedoms, we are confronted with a doctrine which does not derive its entity from scientific laws, so that the discussion of those laws and scrutiny thereof should form the necessary manner for its study. We are but confronted with a doctrine which derives its existence (entity) from particular moral and practical estimations. There-fore, we are not going to talk about the scientific aspect of Capitalism except so far as it clarifies that the doctrinal aspect is not an essential result thereof nor does it possess its scientific character. Then we will study the Capitalist doctrine in the light of practical ideas and moral values whereupon it is based. Because all the discussions contained in this book have doctrinal character and there is no room for scientific aspects except so far as the doctrinal attitude demands.

Although the study of the Capitalist doctrine on this basis depends also on some scientific discussion, yet the role of the scientific discussion in this study completely differs from that in the study of the Marxist doctrine. Because scientific discussion of the laws of historical materialism alone could pronounce final verdict in favour of doctrinal Marxism, as mentioned previously. As for the scientific discussion in the field of the examination of doctrinal capitalism, it does not constitute the highest authority to give verdict in its favour as it does not claim to have scientific character.

The help of scientific discussion is sought only to form a complete idea about the objective results produced by Capitalism in the social field and the nature of the trends (directions) taken by the laws of the economic movement under the shadow of Capitalism so that those results and trends (directions) which result from the enforcement of the doctrine, could be judged

with moral measures and practical ideas which the investigator (examiner) believed in. Therefore, the function of the scientific discussion in the study of the capitalist doctrine is to give a complete picture about the reality of the Capitalist society so that we could judge that picture with special practical measures. It is not its function to put forward an evidence on the necessity of the Capitalist doctrine or wrongfulness thereof.

Consequently, how often it is that an investigator on this basis put forth by us — commits mistake if he receives the Capitalist doctrine from Capitalist scholars as being a scientific reality or a part of the science of political economy, without distinguishing between the scientific and doctrinal character of those economists. For instance when they assert that the provision of the Capitalist freedoms means good and happiness for all, he thinks that this opinion was scientific or was based on a scientific basis like the economic law which says, for instance, that `when supply increases price decreases' although this law is a scientific explanation of the movement of price as found (prevailing) in the market. As for the former verdict about the Capitalist freedoms, it is doctrinal one which its supporters issue in their doctrinal capacity, deriving it from the moral and practical values and ideas they believe in. Therefore correctness of that or other scientific laws does not mean that this doctrinal verdict was correct. This verdict depends but on the correctness of the values and ideas whereupon it was based.

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III – SCIENTIFIC LAWS IN THE CAPITALIST ECONOMY ARE OF DOCTRINAL FRAME-WORK

As we have seen before, the Capitalist doctrine has no scientific character nor does it derive its justifications and existence from scientific laws in economics. Here we want to reach a point deeper in the analysis of the relationship between the doctrinal aspect and the scientific aspect of Capitalism to see how the Capitalist doctrine limits (determines) the scientific laws in the capitalist economy and influences them so far as their direction and course are concerned. This means that the scientific laws in the capitalist economy are scientific laws in the framework of a particular doctrine, and not general laws that might be applicable to every society and at every place and at all times like the natural laws in Physics and Chemistry. Many of those laws are only regarded objective realities in the social conditions controlled by capitalism with its aspects, ideas and meanings and consequently they are not applicable in a society which is not controlled by Capitalism and in which its ideas do not prevail.

In order that it may be clear, we must throw some light on the nature of the economic laws which the Capitalist economy teaches (studies) so that we may know how and to what extent it is possible to admit their scientific character.

Scientific laws of economy are divided in two groups:

First, natural laws which owe their necessity to nature itself rather than the human will, like the general law of limitation which says that: every production which depended on the land and on the raw material its content is limited according to the limited amount of the land and its raw materials; Or, like the law of increasing produce which says that every increase in the production compensates the producer in a greater measure proportionately with his additional expenditure until the increase reached a special degree in which case it (increase) is subject to a contrary law, that is, the law of contradictory yield which says that the increase in the yield starts diminishing at a certain degree (stage).

These laws are not different, in their nature and the objective aspect, from other laws of Universe (existence) which are discovered by natural sciences and therefore they bear no doctrinal character nor are they dependent on particular social or ideological circumstances. Nay expenses of time and place do not differ in respect thereof so long as the nature with the production is related remains the same at all times and in every place.

Second, group of the scientific laws of political economy comprises laws of economic life having link with the will of man himself, in view of the fact that economic life is but one of the phenomena of general human life in which will plays an acute positive role in different branches and aspects. Thus the law of supply and demand, for instance (which says that when demand for a commodity increases while it is not possible to increase the quantity thereof to meet the increased demand the price of the commodity is bound to rise) is not an objective law operating independently of understanding, of man, as do the laws of Physics and Astronomy and as do the natural laws of production which we have in the first group. The law of supply and demand only represents the phenomena of man's wakeful life. Thus it

clarifies that the buyer would in the case defined by the law just mentioned, came forward to purchase the commodity at a rate higher than that in the case of the supply and demand being equal. The seller would not in that case, sell it but at that rate.

The interference of human will in the course of economic life does not mean separation of economic life from the purview of scientific law and impossibility of scientific discussion thereof, as believed by some thinkers in the beginning of the birth of political economy. Because they believed that the scientific laws being incumbent and necessary was contradictory to the nature of freedom reflected by human will. Therefore, if human life was subjected to strict scientific laws, it would be inconsistent with the freedom enjoyed by man in his life. Because when subjected to these laws, he would become a hard tool working mechanically, in accordance with natural laws which control the course of his economic life.

This belief is based on a wrong meaning of the human freedom and a permanent understanding of the relationship existing between freedom and will on the one hand and those laws on the other. Because the existence of natural laws for man's economic life does not mean that man loses his freedom and will. They are but laws for human will which explains as to how man uses his freedom in the economic fields and consequently they cannot possibly be regarded as nullification of the will and freedom of man.

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But these economic laws differ from scientific laws in other aspects of existence in one point which is that these laws; in view of their relationship with the will of man, are influenced by all the factors that affect human wakefulness as also by all the factors which interfere in man's will and his tendencies. Obviously, man's

will with which these laws deal is determined and conditioned in accordance with man's ideas and understanding as also the doctrine (religion) that is in vogue in the society and the form of legislations restricting behaviour of the individuals. It is these factors, therefore, that dictate to man his will and practical attitude and when these factors change, man's tendency and will also change and consequently general scientific laws differ which explain the course of economic life. Therefore, at many times it is not possible to give a general law to humanity about the economic life with different ideological, doctrinal (religious) and spiritual framework. It is not right, scientifically, to expect from human will, in the course of economic life, to proceed and be lively — always and in every society — as it proceeds and is lively in the Capitalist society which the capitalist economists have studied and in the light of which they have formulated laws of the political economy, so long as societies differ in their ideological, doctrinal and spiritual frameworks. But it is necessary to take these frameworks as established meanings in the field of scientific discussion. It is but natural that we should then discover results of the discussion about the laws holding good in the context of those frameworks, particularly.

As an example, we mention the main rule in the light of which many of the classical economic laws have been formulated. This is that rule which takes out from the social perceptible man — an economic man who believes in having his personal interests as his main objective in all the economic activities. The economists have presumed, since the very beginning, that every one's practical tendency in his economic activities is always inspired by his special material interest and then they began to discover the scientific laws which prevail in such a society. This presumption of theirs was very much objective in comparison with the European capitalist society and its ideological and spiritual character and moral and practical measures.

But it is just possible that a basic change may take place in the economic laws of the society's life simply with the changing of this basis and facing a society which differs from the Capitalist one in the matter of the general rule for the behaviours of its members and the ideas and values they believed in. This is not a presumption of our own but it is a fact about which we are going to talk. Because societies differ from one another in respect of factors which determine their impulses of character and practical values in life.

Let us take for example the capitalist society and the one which Islam has called for and which it has been able to bring about. There has lived a human society under the shadow of Islam comprising human beings having blood and flesh, whose general rule of character, scientific measures and spiritual and ideological contents differ totally from the capitalist society. Although Islam, being a special religion of life, does not deal with economic events (problems) scientifically, yet it greatly influences these events and their social course, as it deals with the pivot of these events, that is man with his notions about life, impulses and objectives and fuses him into its peculiar mould and moulds him into its ideological and spiritual framework. In spite of the fact that the experiment Islam made to bring about such a society was short, yet it produced most brilliant results man's life had ever witnessed and proved the possibility of man rising to horizons which members of the capitalist society, immersed in the needs of material and its meanings, could not look at. The information that history gives us about the Islamic experiment and its brilliance throws a light on the possibilities of good (potentialities) hidden in the human being and reveals the power of Islam's mission whereby it could mobilize these possibilities and exploit them for the greater human issue. The history of this golden experiment tells us that once a group of poor people came to the

holy Prophet and said, “O Messenger of Allãh! The rich people have excelled us in earning rewards (of Almighty Allãh) as they say prayers and observe fasting as we do but they also give in charity their extra wealth (which we cannot do)." Therefore the Prophet replied: "Has not God enabled you to give alms? Verily for every *tasbi7i* (praising Allãh) and every *takbir* (glorifying Allãh) you would be given reward of charity, similarly the act of your ordering others to do good and forbidding them to do evil deeds would amount to charity on your part." These Muslims who had complained to the Prophet did not want wealth whereby they could have power or enjoyment or satisfaction of their personal desires. What pained them was that the rich people should surpass them in moral measures by way of righteousness and doing good to others and participation in public welfare works in the social field.

This reflects the meaning of wealth and nature of a Muslim, under the shadow of a completely Islamic experiment of life.

The commercial deals and leases which prevailed in the Islamic society have been described by Shãṭibi as under:

> You would find them taking very little profit or rent so much so that the other party got more out of the deals than they themselves. They cared for the welfare and benefit of the people more than what was normally due so that it looked as though they were agents of the people rather their own. Nay, they regarded themselves, though permissible, it was for them as being cheating against others.

Relating about the cooperation and reciprocal responsibility that existed in the Islamic society, Muhammad ibn Ziyãd says: "Sometimes it so happened that someone of them had a guest, while the vessel of another was on the fire for cooking

some foodstuff. So the host would take away the vessel to serve the food to his guest. When the owner of the vessel found it missing he would ask as to who had taken the vessel and when told by the man, whose guest had arrived, that they had taken it for their guest, he (the owner of the vessel) would remark, ‘May Allãh bless you therein’ ".

Thus we realise the positive effective role of Islam in changing the course of economic life and its natural laws by bringing about a change in his very self and by creating for him new spiritual and ideological conditions. Similarly, we know how fallacious it is to subject a society having these characteristics and ingredients, to the same laws which govern a capitalist society replete with egoism and material conceptions.

We can also take, for example, the laws about the distribution of income and those of demand and supply. The laws about the distribution of income under the capitalist economy, as explained by Ricardo and other classical magnates, require to reserve a part thereof as the wage of the worker, to be determined in accordance with the prices of food-stuffs which might be sufficient for nourishment of the worker and maintenance of his powers. The rest (of the income) is then divided by way of profit, benefit and income. The capitalist economy has concluded from this that for wages there was a rigid law according to which they cannot increase or decrease irrespective of whether there was increase or decrease in the quantity of the cash in which the worker received his wage, according to (as the result of) rise and fall in the prices of the food-stuffs. This rigid law could be summed up like this: When the wages of the workers register increase for any reason, their living condition improves and they take to marriages and procreation in an increased way as the result of which working hands increase and the supply becomes more while the wages fall to the natural limit.

But when the situation is contrary, the wages falling down to the natural level, it leads to wide-spread misery and disease in the ranks of the workers and consequently their number decreases, the supply decreases and the wages rise.

The classical economists present it to us as a scientific explanation of the reality and as being a natural law of the economic life, but as a matter of fact, it does not apply except within special limits and in those capitalist societies in which a general collective insurance is not found and in which pricing depends on the apparatus (system) of the market. But in a society in which the principle of general insurance for a respectable level of living prevails like the Muslim society or in a society in which the apparatus (system) of market is null and void and in which it is bereft of its function to control the prices in accordance with the supply and demand position, such as the socialist society, these laws do not prevail in the form in which they are effective in a capitalist society.

It thus becomes clear that the general scientific framework of the Capitalist economy has a special doctrinal framework, there being no sanctity of the absolute scientific laws.

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IV — A STUDY OF DOCTRINAL CAPITALISM AS REGARDS ITS IDEOLOGY AND BASIC VALUES

The basic constituents of the Capitalist doctrine which we have reviewed previously, indicate that the corner stone of the doctrine is the freedom of man in the economic field in its various branches such as ownership, exploitation and consumption. Thus freedom — with its different kinds — is the basis wherefrom spread all the rights and doctrinal values proclaimed by Capitalism. Nay, even the scientific laws of Capitalist economy themselves are but an explanation of the rigid objective reality in the framework of this freedom as we have seen.

When the idea of freedom was the substance and the -basic content of the doctrinal capitalism, it is necessary for us, while studying the Capitalist doctrine, to examine this notion and analyse the same and to study its ideological seeds as also the ideas and values it was based on.

The first question that comes up for discussion is as to why it is necessary that the society be established on the basis of the economic freedom and how man's right grew therein, a thing on which doctrinal capitalism lays emphasis and refuses to admit any basic definition therefor.

To answer this question, we must know that the freedom

of Capitalist thinking is usually linked with a number of notions and values from which it derives its central position in the doctrine and its character of being a social and human necessity for the human entity.

Thus at one time it was linked with the ideology which believes in the agreement between the interests of the individual, which he feels inclined to materialise out of his personal impulses, and those of the society whereupon depends its general entity. Because when the interest of the individual and the society are in agreement with each other, the social doctrine seeking insurance of social interest has nothing to do except to allow freedom to the individual and open the way for his personal impulses to make realise his special interests which were instrumental in providing (serving) general interest. The freedom, on the basis of this ideology, is therefore nothing but an instrument to provide (serve) these general interests and ensure good and the welfare demanded by the society and being an instrument therefore, it deserves to have its basic centre in the doctrine.

At another time, it is linked with the ideology of the increase in production and centres round the view that holds that the economic freedom is the best motive power for the productive powers and must potent means to bring about all the powers and possibilities and to mobilize them for the general production and consequently to enhance the social wealth in the country. This in reality originates from the first ideology as it expresses one of the aspects of the general interest, that is to provide social production which could materialise through the freedom.

There is a third notion with which the meaning of the Capitalist freedom is linked. This is a notion (ideology) having a purely moral character to express which the Capitalists usually use cloudy expressions or which are not entirely clear. Thus

they repeat that the freedom, in a general way, is an original human right and a practical expression of human dignity and of man's consciousness thereof. Therefore it is not merely a means of social welfare or the increase in production, but it means of materialising man's humanity and his proper natural existence.

It is clear that the doctrinal value of the economic freedom, on the basis of the first two notions, in an objective one, ensuring from the results and effects to which it leads in life. But on the basis of the third notion, the freedom generally — the economic freedom being an aspect thereof — has its own value dictated by man's consciousness of his dignity and humanity.

These are the thoughts by means of which Capitalism usually justifies its understanding of freedom and the necessity of regarding it as the foundation in the social planning called for by the doctrinists.

Therefore, they are a means to materialise general interests. And they are a cause of increasing the production and the general wealth.

And they are the original expressions of the human dignity and man's right in life.

* * * * *

Having presented ideological basis of the economic freedom, we must now study and clarify them.

A- Freedom is a Means for the Materialisation of Public Interests:

This notion is based on the belief that personal impulses always meet general interests and social welfare when freedom is provided to all the individuals in the practical field, because

in a free society man struggles for the materialisation of his personal interests which, in the long run, leads to the promotion of general interests.

In view of this the Capitalist economists were led to believe, in the beginning, that to ensure society's welfare and interests it was not necessary to inculcate moral and spiritual values among the people as every human being, even he who does know anything thereabout, proceeds in accordance with his own interest, when freedom is ensured to him in the practical field. This interest goes side by side with the interests of the society and is consonant therewith, though the individual impelled thereto by a special impulsive. In this way it was possible for the society to dispense with the services which moral and spiritual values render and to fulfil its interests through the Capitalist method which provides freedom to every individual and enables him assess his attitude in the light of his personal interests which ultimately meet with public interests.

It is for this reason that the freedom proclaimed by Capitalism was bereft of all the moral and spiritual frameworks and values because it was (freedom) even in the appraisal of these values. It does not mean that these values have no existence in a capitalist society. It only means that Capitalism does not recognise the necessity of these value to ensure society's interest and thinks that it is possible to dispense with them by providing freedoms to the individuals, though the people were free to adhere to these values or reject them.

In the context of the argument therefore, the supporters of Capitalism say economic freedom opens the field of free competition in different projects of production. The owner of the project — under the shadow of this free competition prevailing in the economic life — always apprehends lest any other project should excel his own and thereby sweep it off. Therefore, his own interest makes him improve his project and

increase its competence so that he is able to enter the race with other projects and remains involved in the furnace of perpetual competition (struggle). One of the important means which are adopted to achieve that end is to bring about technical improvements in the project. This means that the owner of a project in a free Capitalist society always remains catching every idea or new improvement in production or anything else which could enable him to materialise the production with less expenses. Having introduced the improvement, he soon finds other projects having caught up with his, whereupon he once again starts searching for some other new idea so that he may retain the superiority of his project over other ones. Anyone who remains behind in this race has to pay for it in the form of his project becoming bankrupt. Thus free competition under the Capitalist system constitutes a sword that hangs over the heads of the organisers, annihilating the weak, negligent and the lazy fellows and ensuring survival of the fittest. Obviously, this competition leads to the promotion of the general interest because it provides an urge to benefit perpetually from the scientific and technical product of mind and to meet human needs with the least possible expenditures.

Thus being the state of affairs, there is no need to tax the owner of the project with a certain moral education to train him with moral values or to pour admonition and advices into his ears in order that he may satisfy human needs with the least possible expenditure and enhance the quality of the commodities. Because his personal interest necessarily makes him do that, so long as he lives in a free society pervaded by competition.

Similarly, there is no need for preaching so that he may contribute in good benevolent deeds and be concerned with the interests of the society as his personal interest makes him do

that automatically, being a part of the society.

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The talk about the consonance between general interests and personal impulses, under the shadow of the Capitalist freedom, has today become a laughing stock rather than accept-able after the history of capitalism has groaned with distresses and calamities having but little parallel in the history, blatant inconsistencies between general and personal interests and colossal vacuum caused by the dispensing with the spiritual and moral entity of the society as the result of which the society was pervaded by different kinds of oppression, recklessness and greed.

We can very easily discern, through the pervading history of Capitalism, the crimes of this Capitalist freedom which has thrown off the yoke of all the spiritual and moral restrictions, as also it has dangerous effects in the course of economic life. In the first place, in the economic life, in the second place, in the spiritual contentment of the society, and in the third place, in the relations between the capitalist and other societies. As the result of this the capitalist themselves have started to have belief in the necessity of Capitalism undergoing change and restriction and are trying to do some patching and repairing, with a view to get rid of these effects or to conceal them from the eyes and thus Capitalism, in its complete doctrinal form, has become more a historical doctrine than the one living existing in actual life.

As for the course of economic life of the Capitalist society, the absolute capitalist freedom therein is but a weapon in the hands of the powerful making way for them and paving the way of wealth on the skulls of others. Because so long as the people possess different amounts of mental and physical talents and

natural opportunities, they must adopt different ways to benefit from the complete economic freedom provided to them by the Capitalist doctrine. They must also differ in the degree in which they benefit therefrom. This inevitable difference between the strong and the weak people leads to the freedom becoming legal expression of the right of the strong in everything, while meaning nothing in respect of others. Since the Capitalist freedom does not recognise control, of whatever kind it may be, the secondary people would lose every assurance for their existence and respect, in the struggle of life and would remain at the mercy of strong competitors who know no bounds for their freedoms in respect of spiritual and moral values and who take into account nothing but their own interests.

As the result of this Capitalist freedom, human dignity was spoiled so much that man himself became a commodity subject to the laws of supply and demand and human life became dependent on these laws and consequently dependent on the iron law about wages. So when the working human powers increased and when the part thereof brought on the stage of the Capitalist production registered an increase, there was fall in prices. Because the Capitalist would regard it a good opportunity to derive his own happiness from the misery of others and thus he would let the wages of the workers fall to a level which does not ensure them a living and at which they cannot meet some of their needs and which throws off a colossal number of them into the streets where they suffer pangs of starvation only because he (the Capitalist) enjoyed unlimited freedom. There was no harm for the workers (so to say) to perish and die of starvation as long as the Capitalist economy gave them a ray of hope and an aperture of light. But what is that hope which it generates in their minds? It is the hope their number becoming less as the result of piling misery and disease. Yes, by God, this is the hope which the iron law of wages holds out to the workers saying to them: "Wait a

bit until starvation and misery make a large number of you fall down (die) so that your number decreases whereby supply equalled demand resulting in the rise of your wages and the consequent improvement in your condition".

This is the so-called mythical agreement between the personal impulses under the shadow of the Capitalist freedom and the public interests. This is the agreement which the Capitalists themselves have been obliged to no longer believe in and adopt the idea of limiting the freedom with values and guarantees.

When this was the lot which the economic life in a capitalist society got out of the capitalist freedom and effects thereof, the spark of that bare freedom which affects spiritual contentment of the nation was all the more cruel and bitter, as sentiments of goodness and doing good to others disappear generally and tendencies of selfishness and greed dominate and struggle for existence pervades in the society instead of the spirit of co-operation and solidarity. What do you think about a person who lives in conformity with the absolute meaning of the Capitalist freedom when moral values and social situations demanded of him some sacrifice of his personal interests and when even his personal interests sometimes make him materialise public interests, being in his own interest also. Although this might lead to the same result which is aimed at by spiritual and moral values from the objective point of view but it does not materialise the personal aspect of those values nor does it make a human being a man in respect of his sentiments, feelings, impulses and incentives. Because morals do not have objective values alone, but they also possess personal value, which is no less important than their objective value in perfecting human life and spreading (generating) the spirit of happiness and personal welfare. We will shortly discuss, in the next chapter, the question of personal impulses and their relationship with public interest, in more detail.

Let us now leave effects of the Capitalist freedom on the inner contentment of the Capitalist society and suppose — with the Capitalist myth — that personal impulses themselves guarantee the materialisation of public interests. But is it possible for this imaginary idea to say like that about the interests of different societies and claim agreement between special interests of the Capitalist society and other human societies? If the Capitalist society believed in the Capitalist freedom, cut off from all the spiritual and moral frameworks, then what prevents it from exploiting all other human groups to its advantage and subjugate them to serve its own purposes?

It is the historic reality of Capitalism which replies to this question. Humanity has indeed suffered terribly at the hands of Capitalist societies as the result of its moral emptiness, spiritual vacuum and its peculiar way of life. These sufferings would remain a blot on the face of the history of the modem materialist civilization and a proof that the economic freedom which is not bound by moral limits constitutes one of the most destructive weapon of man. It was the result of this freedom, for instance, that there has been a mad race among the European countries to subjugate peaceful humanity and to exploit it towards the service of the capitalist. The history of Africa alone constitutes a page of that feverish race in which African Continent was subjected to a storm of misery because a number of States like Britain, France and Holland, etc. imported a colossal number of peaceful residents of Africa, sold them in the slave market and presented them for sacrifice at the altar of Capitalist giant. The traders of these countries used to bum African villages so that their residents were terrified into fleeing their hearths and homes whereupon the traders got control of them and drove them to Merchant ships which transported them to the Masters' countries. These horrible deeds continued to be committed until the nineteenth (19th) Century during which Britain launched a large

scale campaign against it until it was able to conclude international Agreements condemning the trading in slaves. But this endeavour itself bore the Capitalistic character and did not come forth out of the spiritual belief in moral and spiritual values. This is proved by the fact that Britain which did so much to ban practical deeds, replaced it with concealed enslavement by sending its large Fleet to African coasts to supervise (control) the banned trade with a view to put an end thereto. Yes, by God, it claimed that it had done that to finish it. But in this way it paved the way for occupation of large areas on the western coasts; the operation of enslavement started in the Continent itself under the mark of colonisation in place of the trade markets of Europe!!

After all this, can we say that the Capitalist freedom is a magical equipment working spontaneously without any moral and spiritual consideration, to turn the struggle of the people for their personal earnings into a machine which might guarantee the public interests and social welfare?

B- Freedom Causes Growth of Production:

This is the second notion on which capitalist freedom is based as we have seen before. But it is based on a mistake in understanding the results of the Capitalist freedom and another mistake in assessing the value of the production.

Thus the production Projects in the Capitalist society do not constitute small units entering competition with equal degree of competence and possibilities so that each Project might be competent to compete with other Projects which constitutes a factor which ensures free competition and thereby makes it a means for growth and improvement of the production. But the production Projects in the Capitalist society are of different sizes, competence and capability of getting merged into one

another. The Capitalist freedom in such a case opens the way for competition, which soon leads to violent struggle in which strong Projects crush other ones and begin to monopolize the production gradually until all the forms of competition and its fruits get concealed in the race course of production. Thus free competition which promotes production does not accompany the capitalist freedom long but it soon leaves room for monopolization as long as the economic situation is possessed by the Capitalist freedom.

As for the other basic mistake of the notion, it lies in assessing the value of the production as mentioned by us. Supposing the Capitalist freedom leads to abundant production and its growth both quantitatively as well as qualitatively and that the free competition would continue under the shadow of Capitalism, materialising the production of the commodity with the least possible expenditure, but this does not prove that Capitalism is capable of ensuring welfare (happiness) of the society. But it only indicates that the society, under its shadow, is capable of improving the production and realising largest possible quantity of the commodities and the services. This capability is not all that matters in social welfare which the doctrine is supposed to ensure. This is but a power which _is spent in a way that ensures welfare and happiness for the society as also in a contrary way. The thing that determines the form in which the social collective power is expanded for production is the manner followed in the distribution of general production among the members of the society. Thus the public welfare does not relate so much to the quantity of the general produce as to how this produce is distributed among the individuals.

The Capitalist doctrine is most incompetent in respect of distribution which guarantees welfare of the society and happiness of all because the doctrinal capitalism depends on the price structure in the matter of distribution which means that he who

does not possess the price of a commodity has no right to live. Thus it passes sentence of death or deprivation on anyone who was unable to earn the price on account of being unable to contribute to the production of the commodities and the services or because non-availability of opportunities for the contribution or because of having fallen a victim at the hands of stronger competitor having blocked all opportunities for him. That is why the unemployment of working hands in capitalist societies constitutes a most terrible human tragedy. Because when a Capitalist dispenses with the services of a worker, for any reason, the latter does not find the price whereby he could procure his needs and necessities of life and thus he is obliged to lead a life of misery and starvation because price constitutes the framework of distribution and as long as he did not obtain something thereof in the market, he had no share in the wealth produced however colossal it might be.

Therefore, the exaggeration about the competence of the Capitalist doctrine and its potency in respect of promoting the production, is very misleading and a cover to conceal the dark aspect thereof which recklessly passes sentence of death and deprivation on anyone who does not know the secret word, and cannot get the magic coin of cash.

In the light of this it is not possible for us to regard the production alone as a justification, from moral and practical aspect, for different means which help promote greater production and more fertile land because abundant production, as we have seen, does not constitute the entire expression of general social welfare.

C- Freedom is the Real Expression of Human Dignity:

After this, nothing remains there except the third notion about freedom which judges the freedom by personal criterion

and adds thereto an original spiritual and moral value, as being the basic manifestation of the dignity and self-realisation without both of which life remains meaningless.

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We must, first of all, point out that there are two forms of freedom, i.e. natural and social freedom. The natural freedom is that which is bestowed by nature itself while the social freedom is that which is granted by a social system and which the society guarantees to its members. Each of these two freedoms has a characteristic of its own. Therefore, when we study the meanings in which Capitalism understands freedom, we must differentiate between these two freedoms lest we should give the attributes and characteristics of one to the other.

Thus the natural freedom is an essential element in the man's constitution and constitutes a basic phenomenon which is common to all living beings with different degrees in accordance with their vitality. That is why man has the largest share of this freedom of all the living beings. Therefore, the greater the life in a living being, the greater the amount of freedom it enjoys.

In order to realise the essence of this natural freedom, we start with observation as to how non-living beings follow their course. Nature determines fixed directions for such beings and lays down the way (behaviour) from each one thereof which it cannot deviate from. For instance nature has prescribed a particular course for the stone, in accordance with general laws of existence. Thus we cannot, for instance, expect from it to move so long as we did not move it nor can we expect it, when we set it in motion, to move in any direction except in which we have set it to move. Similarly we cannot imagine it to retreat in order to avoid collision against a wall coming in its way. So it is bereft

of all forms of positive power and capability of being conditioned into new conditions and therefore it had no share of the natural freedom. As for a living being, its attitude towards the circumstances and conditions is not negative or obligatory in a particular direction from which it could not deviate. Contrarily, it possesses a positive power to condition itself and is capable of innovating a method (course) in case the usual one was incompatible with its circumstances. Thus positive power alone reveals to it the meaning of the natural freedom in view of the fact that nature had placed before the living being numerous alternatives so that it could adopt, in all circumstances, the one which was most suitable for its particular environments. Thus the plants, which are regarded to belong to the lowest category in the family of living beings, possess that power or the freedom in a low or primitive degree or level. Because some plants change their direction when they come near an obstruction which might prevent them from proceeding in that particular direction, and hasten to condition themselves and take a new direction. Looking at the animals, being in the second position (class) among the living beings, we find that they possess that power and freedom on a larger scale and of a higher level. Nature has placed before them numerous alternative from which they could always adopt that which suited their desires and inclinations the best. Thus while we find that when we throw a stone, it cannot change its set direction at all and the plant cannot deviate from its direction except in a limited way, the case is different with the animal which is capable of taking different directions always. Thus the scope given by nature to the animal for its essential activities is greater in respect of alternatives as compared with those allowed to the plant.

The natural freedom reaches its climax in man because the field of work granted to him by nature is the widest of all.

While the natural inclinations and desires in an animal constitute the final limits for the field in which it works so that it cannot use its freedom except within the limits of these inclinations and desires, the situation is different so far as the field of essential activities of man is concerned because man has been constituted, spiritually and organically, in a peculiar way, so that he can possibly control or restrain these desires. Thus he is free even to act according to these desires or contrary thereto.

This natural freedom enjoyed by man is rightly regarded one of the essential elements of humanity as it constitutes an expression of its essential power. Therefore mankind without this freedom would come to a word with no meaning.

Obviously, the freedom taken in this sense does not fall in the purview of doctrinal discussion and it has no doctrinal character because it is a boon bestowed upon by God and it is not a gift of any particular doctrine so that it could be studied on a doctrinal basis.

As for the freedom which carries doctrinal character and distinguishes the capitalist doctrine and which occupies main position in its entity, it is the social freedom that is the freedom which an individual gets from the society. Because this is the freedom which relates to the social existence of man and falls within the scope of the doctrinal and social studies.

If we were able to clearly distinguish between the natural and social freedoms, we could realise the extent of folly involved in ascribing the attributes of the natural freedom to the social freedom and in saying that the freedom provided by the Capitalist doctrine constitutes the essential constituent of humanity and an essential element in its entity. Because this assertion is based on not distinguishing between the natural freedom, being an essential constituent of the human existence and the social freedom, being a social issue the extent of whose capability of building a happy society and compatibility whereof with the moral

values we believe in must be studied.

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Let us now take the social freedom, being much, so that we may study capitalist doctrines attitude thereto, having set aside the natural freedom from the scope of doctrinal discussion and getting acquainted with the characteristics of each of the two freedoms.

On analysing the meaning of the social freedom we find its real content and ostensible (outward) form. It is two-sided, one, the real content of the freedom or the essential freedom, as we will express it hereafter, and the second, the outward form of the freedom which may be called formal freedom.

Thus there are two kinds of the social freedom. One, essential social freedom and the other, formal social freedom.

As for the essential social freedom, it means the power which one earns from the society to do a certain thing. This means that the society provides to the individual all the means and conditions needed for doing that thing. So if the society assures you of possessing the price of a particular commodity, made the commodity available abundantly in the market and does not let anyone else have the right to monopolise the purchase of the commodity, you are then free to purchase the commodity because socially you enjoy all the conditions where-upon depends purchasing of that commodity. But if the society does not enable you to have the price of the commodity, does not ensure supply of the commodity in the market or gives another person the exclusive right to purchase that commodity then in such a case you do not have in reality essential freedom or the real purchasing power.

As for the formal freedom, it does not demand all that, but the act becomes impossible in respect of the individual like

purchasing of the commodity by one who does not possess its price. But in spite of that, he is regarded socially free in formal aspect, even though this formal freedom may not have any real content. Because the formal freedom to purchase does not mean power to purchase, actually. It only means, in its social sense, that the society allows one, within the scope of his possibilities and opportunities determined by his position in the course of competition with others, to adopt any method which enabled him to purchase that commodity. Thus an ordinary man is free, formally, to purchase a pen, in the same way as he is free to purchase a Capitalist company, having a capital of hundreds of million, so long as the social system lets him do any work and adopt any method towards purchasing that big company or that insignificant pen. As for the scarcity of the opportunities and conditions enabling him to purchase the company or absence of these opportunities in the competition course finally and their being not provided by the society, all this is not inconsistent with the formal freedom in its general outward framework.

But the formal freedom is not void like this entirely as it has a positive meaning sometimes. Thus a businessman whose existence as a trader began in a successful way, may not be able practically to purchase a big company but as long as he enjoys the formal freedom socially he was capable of doing different kinds of business in order that he might obtain the power to purchase that company sooner or later. On this basis the formal freedom to purchase and possess the company would have a positive meaning because although it does not give him the company practically, yet it allows him to try his talents and undertake different activities with a view to succeeding in getting the ownership of that company. The thing which he misses under the shadow of this formal freedom is the society's guarantee to him to secure the company or its price. Because this guarantee, which

constitutes the meaning of the essential freedom, is not provided to the individuals by the formal freedom.

Therefore, the formal freedom, socially, is not always void, but it constitutes a means to rouse power and strength in an individual and to mobilize it in order to make him reach higher levels, although it (formal freedom) does not offer any guarantee of success.

In the light of this we realise that although the formal freedom does not mean power, practically, yet it is an essential condition to have this power. Thus the businessman mentioned above, could not be able to dream of owning the big Capitalist Company and consequently could not practically possess it after continued struggle, had he not enjoyed the formal freedom and had the society not let him try his luck and the chances in competition course. In this way the formal freedom would be an effective means and an essential condition to secure the essential freedom and the real power to purchase the company while the freedom of individuals to own the company remained but formal and only nominal, with no atom of reality.

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The Capitalist doctrine adopts the social formal freedom, believing that the formal freedom embodies the meaning, of freedom entirely. As for the `essential freedom' — as described by us in the foregoing pages — it means, according to it (Capitalist doctrine), capability to benefit from the freedom and not that it is the freedom itself. That is why it does not concern itself with providing one with the capability and granting him the essential freedom. It simply leaves it to the opportunities and possibilities one happens to succeed with, regarding it enough to provide the formal freedom which allows him to undertake different

kinds of economic activities to achieve his objects and reject any social authority putting pressure and coercion in any field of life.

Therefore, Capitalism adopts a negative attitude vis-à-vis the essential freedom and a positive one towards the formal freedom that is, it does not bother about providing the former, but providing only the formal freedom to the individuals.

There are a number of justifications, in the opinion of Capitalism, for that negative attitude towards the essential freedom which are summed up in two things:

One, the power of any social doctrine, whatever it may be, is remiss in providing the essential freedom to everyone and in ensuring power enough to achieve all his objectives. Because many people are bereft of talents and special competence which are considered essential for the achievement of their objects and naturally a doctrine cannot possibly turn a dullard into a genius. Similarly there are many objectives. the achievement of which cannot be ensured to all the individuals. For example, it is not reasonable that every individual becomes President of the country and similarly all the individuals cannot be assured of the capability to hold the post of the President, practically. What was reasonable was to open the way for every individual to enter political or economic struggle and make experiment with his talents, whereafter he may succeed and reach the climax, stop in the midway or go back as loser. In any case he would himself be finally responsible for his destiny in the struggle and the extent to which he succeeds or fails.

The second thing whereby Capitalism justifies its being devoid of the essential freedom is that if an individual was granted this freedom by offering sufficient guarantees for the success in any enterprise undertaken by him, it would greatly weaken his feeling about his responsibility and extinguish the sparks of freedom in him which urges him to be active and

lends him greater wakefulness and vigilance. Because so long as the doctrine ensured success to him he had no need of depending on his own self and exploiting his potentiality and talents, all of which he would have done if the doctrine had not provided to him the essential freedom and necessary guarantees.

Both of these justifications are right to some extent but not in the form given by capitalism on the basis of which it totally rejects the idea of the essential freedom and the assurance. Because although to guarantee the achievement of an objective one has in the field of economic activity, constitutes a hollow dream which is impossible to materialise, and which a social doctrine can rarely be expected to materialise, yet it is not something ideal which could not be materialised, to provide minimum essential freedom in the economic field and give sufficient guarantees for a certain level of living, regardless of the man's opportunities and conditions, nor is it a reason for freezing the talents and potentialities of growth and perfection found in man as long as the higher levels were subject to free competition as they demand from individuals effort and activity and develop self-reliance in them.

Therefore, Capitalism cannot, in its negative attitude towards the essential freedom and the assurance, take the support of the impossibility of providing such an assurance or by saying that such an assurance paralyses the fervent energy for the human activity, as long as the doctrine could provide a reasonable degree of assurance and open, outside this degree, fields for competition which promotes and improves capabilities.

As a matter of fact, the negative attitude of capitalism towards the notion of assurance and the essential freedom was inevitable outcome of its positive attitude towards the formal freedom. Because having adopted the formal freedom and based its entity thereon, it was necessary for it to reject the idea of the assurance and adopt its negative attitude towards the essential

freedom which are inconsistent with each other. Therefore, it is not possible to provide the essential freedom in a society which believes in the principle of the formal freedom and is anxious to provide it to all the individuals in different fields. Because the liberty a businessman had to employ or reject a worker and the freedom the wealthy people enjoyed in disposing their wealth to suit their own interests, as established by the principle of the formal freedom, i.e., the infeasibility of laying the principle of guaranteeing work to the worker or guarantee of living to those who cannot work, being invalids. Because provision of such guarantees was not possible without limiting those freedoms which are enjoyed by businessmen and the wealthy people. Thus either businessmen or the wealthy people are allowed to act as they want and are given, thereby, the formal freedom so that it became impossible to provide guarantees of work of living, or these guarantees are provided so that business-men or the wealthy people are not allowed to act according to their free will, which would mean violation of the principle of the formal freedom which stands for the necessity of allowing everyone freedom to act in the economic field as he desired. Since Capitalism believed in this principle, it was obliged to reject the idea of guarantee, the idea of the essential freedom with a view to ensuring the formal freedom to all the individuals, equally.

While the Capitalist society adopted the formal freedom, setting aside the essential freedom and the idea of assurance, the Socialist society adopted a contrary attitude as the Marxist Socialism ended the formal freedom by establishing a dictatorial system, wielding absolute authority in the country. It claimed that it had compensated for the formal freedom by providing essential freedom, that is by providing to the country-men guarantees of work and life.

Each of the two doctrines has, thus adopted one aspect of

freedom leaving the other one. This polarised inconsistency between the formal and the essential freedoms or between the form and essence, has not been solved except in Islam which believes that society needs both the forms of freedom. Consequently, it provided to the society the essential freedom by ensuring a reasonable degree of guarantee to all the individuals of the society, an honourable life and the necessary requirements thereof, not recognising freedom within the limits of this assurance. At the same time it did not let this assurance be a justification for doing away with the formal freedom and wasting its own personal and objective value but opened the way and granted to everyone, outside the bounds of the assurance, such freedoms as were consonant with his understanding about the existence and life. Thus man is guaranteed to a degree and within special bounds, and is freed outside these bounds. In this way the formal and essential freedoms have been blended together in the Islamic planning. There has never been any consideration, outside the shadow of Islam, over this splendid blending of the two as how to materialise it, except during the last century when efforts were started to establish the principle of assurance and to bring about agreement between it and the freedom, after the experiment of Capitalist freedom failed bitterly.

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In any case, Capitalism has sacrificed the idea of assurance and the essential freedom for the sake of the formal freedom.

Here we arrive at the central point in our study to ask as to what are those values on which the formal freedom is based in the Capitalist doctrine and which have allowed Capitalism to sacrifice the essence of freedom and its guarantees at their altar. We must here set aside all the efforts aimed at justifying the

formal freedom with social objective justifications such as describing it as being a means to make general production abundant or to materialise social welfare. We have already studied these justifications, which have not withstood study and examination. We are now concerned with the endeavour of capitalism, to explain the value of freedom itself.

It may be stated in this regard that freedom is a part of man's entity and if he is deprived of his freedom he loses his dignity and his human meaning (character) whereby he becomes distinct from other animals. This flimsy expression does not apply to a scientific analysis of the value of freedom and can attract no one but one who is fond of playing with words. Because man's human entity is distinguished from the rest of the world by natural freedom being, a natural being, and not by social freedom, as being a social being. Thus it is the natural freedom which is regarded as something belonging to man's entity and not the social one which is bestowed or snatched away, depending on the social doctrine in vogue.

It is sometimes said that freedom, in its social meaning is an expression of an original tendency in man and of one of his essential needs. Thus being gifted with natural freedom, man feels personally inclined to be free in his behaviours and relations with others in the society he lives in, just as he was free by nature. In order that a social doctrine be realistic one compatible with the human nature with which it deals, it should recognise original tendencies in man and ensure their satisfaction. A doctrine cannot, therefore, possibly suppress in man his natural tendency towards freedom.

This is right to some extent. But, on the other hand, we say that it is the duty of a social doctrine which wants to base its edifice on solid foundations in human being to recognise different original tendencies in man as well as his various essential needs and to work for agreement between them. In order that

it may be a realistic human doctrine, it is not palatable for it to recognise one of those original tendencies and guarantee them to the greatest extent at the cost of other tendencies. For instance, although freedom is an original tendency in a man because by nature he rejects compulsion, coercion and pressurisation, yet he has essential needs and other tendencies and therefore he urgently needs something of tranquillity and peace of mind in his life. Because worry (anxiety) awes him just as he is perturbed by pressure and compulsion. So when he loses all the guarantees which the society could provide him within his life and livelihood, he is deprived of one of his essential needs as also of the satisfaction of his original tendency to have settlement and confidence. Similarly if he loses his freedom entirely and the social system dictated its will to him per force, he was deprived of another of his essential needs, that is his need for freedom which expresses original tendency in his mind. Therefore, if the doctrine tried to be realistic and based on firm foundations of the reality of humanity, it must work for bringing about wise and minute agreement between man's original need for freedom and his original need for something of settlement and confidence and his all other original needs. If the tendencies and other needs are set aside and be sacrificed for a single original need so that it may be satisfied to the greatest possible extent, as has been done by the capitalist doctrine, it would be in contravention of the simplest doctrinal duties.

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Finally, although the attitude of Capitalism towards freedom and assurance is wrong, yet it is completely in consonance with the general framework of Capitalist thinking. Because assurance centres round the notion of limiting and pressurisation thereof but Capitalisation finds no justification for this curb and limitation

on the basis of its general meaning of the world and man.

Because the limitation and pressurisation are justified by historical need, as believed by Marxism in the light of historical materialism as it is of the view that Proletarian dictatorship which practises the policy of limitation and pressurisation of the freedoms in a Socialist society springs from the inevitable necessity of laws of history.

But Capitalism does not believe in the historical materialism with the continuity peculiar to Marxism.

The limitation and pressurisation derive the justification from the belief in a higher authority possessing the right to organise humanity and direct it in life and to lay defined guarantees for the freedoms of individuals, just as religion believes, as it thinks that man has prudent Creator who has the right to make his social existence (being) and define the way he must follow in life.

This is something which capitalism cannot recognise in view of its basic meaning which stands for separation of religion from the reality of life and alienating it from all the general social fields.

The limitation and pressurisation is sometimes justified by its being a power springing from within man and imposed on him by his mind (conscience) which enjoins on him moral values and definite limits (boundaries) in regard to his behaviour with others and about his attitude towards the society. But the conscience, in the sense it is taken by Capitalism in its code of ethics, is but an internal reflection of the practice or customs or any other limitation imposed on an individual from without. Thus conscience, on final analysis means external pressure and it does not spring from inner depths.

In this way, Capitalism is ultimately unable to explain the pressure on freedom, by way of historical need, religion or conscience.

And in this way its attitude towards freedom is connected with its ideological roots and its main meanings of the existence and man, and of history, religion and morals.

It is on this basis that Capitalism has formulated its political understanding about Government and various social authorities. Thus it sees no justification for the interference by these authorities in the freedoms of individuals except to the extent necessary for maintaining them and safeguarding them against anarchy and clash because it is the extent allowed by the individuals themselves. But interference beyond these limits has no justification from historical inevitability, religion or values and morals. It is therefore but natural that Capitalism should desist from its ideological continuity and by stress on the freedom in the economic field and reject the idea of establishing authority by providing any guarantee and restriction.

These are the concepts of Capitalism in its general binding which leads to the general ideological bases.

And this is the aspect of view which must thoroughly examine those concepts, and as a result victimize them on the basis of that view point.

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CHAPTER TWO

OUR ECONOMY: ITS MAIN SIGN-POSTS

I - GENERAL EDIFICE OF ISLAMIC ECONOMY

II - ISLAMIC ECONOMY IS A PART OF A WHOLE

III - GENERAL FRAME-WORK OF THE ISLAMIC ECONOMY

IV - ISLAMIC ECONOMY IS NOT A SCIENCE

V - RELATIONS OF DISTRIBUTION ARE SEPARATE FROM THE SHAPE OF PRODUCTION

VI - ECONOMIC PROBLEM IN THE SIGHT OF ISLAM AND ITS SOLUTIONS

I — GENERAL EDIFICE OF ISLAMIC ECONOMY

The general edifice of Islamic economy comprises of three main elements according to which its doctrinal content is defined and whereby it is distinguished from all other economic doctrines in their broad lines. These elements are as follows:

1. The principle of double ownership.
2. The principle of economic freedom in a limited sphere.
3. The principle of social justice.

We will soon explain and elucidate these elements, providing a general idea about the Islamic economy, so that we may be able to discuss more exhaustively its details and doctrinal characteristics.

1- PRINCIPLE OF DOUBLE OWNERSHIP

Islam differs from Capitalism and Socialism substantially in respect of the nature of ownership which it allows.

Thus the Capitalist society believes in private individual

form of ownership, that is, private ownership, as a general rule, allowing the individuals to have private ownership of various kinds of the wealth in the country according to their activities and circumstances. It does not recognise general (public) ownership except when necessary for social need and when nationalisation becomes essential in this field or that on the basis of experience. This need would thus be an exceptional case in which the socialist society was obliged to give up the principle of private ownership and exempt a public utility or a certain wealth from its purview.

The Socialist society is entirely contrary thereto. Because common ownership constitutes the general principle in such a society, which is applicable to all kinds of wealth in the country. It regards private ownership of some of the (sources of) wealth only an exception, which is recognised sometimes in view of some dire social need.

On the basis of these two contradictory views of Capitalism and Socialism the name `Capitalist Society' is given to any society which believes in private ownership as the only principle and which believes in nationalisation as an exception resorted to in order to meet a social need. Similarly, the name of `Socialist Society' is given to every society which believes that the common (public) ownership constitutes the fundamental principle and which does not recognise private ownership except under exceptional circumstances.

As for the Islamic Society, the basic attribute of each of these two societies is inapplicable thereto. Because the religion of Islam does not agree with Capitalism in the belief that private ownership is the fundamental principle nor does it see eye to eye with Socialism in regarding the common (public) ownership as the general principle but it establishes different forms of ownership at one time, thereby laying down the principle of double ownership (of different forms) instead of only one form

of ownership as adopted by Capitalism and Socialism both. Thus it believes in private ownership, general (public) ownership and `State ownership 'and provides for each of these forms of ownership a particular field to work in. It does not regard anything thereof as an exception or a temporary treatment necessitated by circumstances.

That is why it is wrong to call the Islamic society a Capitalist one in spite of the fact that it allows private ownership in respect of a number of capitals and means of production, as it does not recognise private ownership as a general principle. Similarly, it is wrong to give to the Islamic Society the name of `Socialist Society' although it adopts the principle of general (public) ownership as well as State ownership in respect of some kinds of wealth and capitals because in its opinion the Socialist owner-ship does not constitute the general principle. It is also wrong to regard it (Islamic Society) as an admixture of this and that, because the variety of the main forms of ownership in the Islamic Society does not mean that Islam has blended the two doctrines, the Capitalists and the Socialist, and adopted an aspect from the both. This variety of the forms of ownership is only an expression of an original religious planning which is based on certain ideological basis and which lies within a special framework of values and meanings, contrary to the bases and values and meanings on which are based the free Capitalism and the Marxists Socialism.

There could be no better evidence on the rightness of the attitude of Islam towards ownership, based on the principle of dual ownership than the (result of) the two experiments, of Capitalism and Socialism. Because both the experiments were obliged to recognise the other form of ownership, which was inconsistent with their general principle as the idea of having only one form of ownership has been proved to be wrong by actual practice. Consequently the Capitalist Society has since long

started adopting the idea of nationalisation and exempting some of the public utilities (fields) from the system of private ownership. This tendency of nationalisation is but an indirect admission on the part of the Capitalist Societies of the invalidity of the Capitalist principle in respect of ownership and an effort to deal with the inconsistencies and complications arising out of that principle.

On the other hand the Socialist Society despite its being young, was also obliged to recognise private ownership at one time, legally, at another time illegally. Its legal recognition thereof was constituted by the seventh Article of the Soviet Constitution under which each of the families of the cooperative farms has a piece of land of its own, adjacent to the place of its residence, over and above its basic income accruing from the economy of the common cooperative farm. Besides, it has additional economy on the land, a dwelling place, productive live stock, birds and simple agricultural implements. All this it possesses as a private ownership. Similarly the 9th Article allows individual and professional farmers the ownership of small economic projects and the existence of these properties side by side with the Socialist system in vogue.

2- PRINCIPLE OF ECONOMIC FREEDOM IN A LIMITED SPHERE

The second element of the Islamic Economy is constituted by the limited freedom allowed to the individuals in the economic field, which is restricted by moral and spiritual values in which Islam believes.

In this element too, we find a glaring difference between the Islamic economy on the one hand and those of Capitalism and Socialism on the other. Thus while individuals enjoy unrestricted freedoms under the shadow of the Capitalist economy

and while the Socialist economy confiscates freedoms of all, Islam adopts an attitude which is in consonance with its general nature. Thus it allows the individuals to enjoy their freedoms remaining within the sphere of the values and ideals which refine and allow freedom and thereby make it a means of welfare and good for the entire humanity.

Islam's restriction of the social freedom in the economic field is of two kinds:

First, the personal restriction springing from the depth of one's self, deriving strength from the spiritual and ideological content of the Islamic personality (individuality).

Second, the objective restriction which constitutes an expression of an external power which defines and regulates the social behaviours.

As for the personal restriction, it is constituted naturally under the shadow of a special training and education given to an individual in a society in which Islam dominates in all walks of life. The ideological and spiritual frameworks in which Islam moulds the personality by affording an opportunity to lead life and make history on its basis, have immense moral power greatly and great influence in limiting the freedom which is granted to the individuals of the Islamic society and in directing it in .a proper and refined manner, without letting them feel that anything of their freedom had been wrenched, because the limitation springs from their spiritual and ideological reality and therefore they do not find therein a curb on their freedoms. That is why the personal limitation does not in reality mean a curb on the freedom. It only means an operation of letting the internal content of man in a proper and spiritual way so that freedom conveys its right message under the shadow thereof.

This personal restriction had a great and splendid effect in formulating the nature of the Islamic society and its general

temper. Although the complete Islamic experiment was short, yet it bore fruit and let noble and ideal possibilities gush forth in man, and granted him a rich spiritual stock of the feelings of justice, goodness and benevolence. If this experiment could continue longer than it did in the short span, of its history, it would have proved man's competence for caliphate (rule) on earth and it would replete with feelings of justice and mercy and would have uprooted elements of evil and impulses of injustice and corruption from mankind's self.

To prove the results of the personal restriction it is sufficient to realise the fact that it alone has been basically responsible for good and benevolent deeds in the Muslim society ever since Islam lost its experimentation of life and its political and social leadership. Although a long time has elapsed since that experiment and leadership took place and although the Muslims have gone away therefrom, standards having commensurate with the falling of their ideological and moral standards and their adoption of other ways of social and political life, yet despite all that, this personal limitation whose seed was laid down by Islam in its complete experiment of life, has played its positive and active role in ensuring deeds of goodness and benevolence, which is represented in the fact that millions of Muslims with their full freedom shining in the framework of that limitation, come forward to pay up religious tax *(zakãt)* and other rights of God and participate in the materialisation of the meanings of Islam about the social justice. In the light of this reality it can very well be judged what the results would have been had these Muslims lived strictly according to the Islamic experiment and if their society had been a complete embodiment of the Islamic thoughts, values and politics and a practical expression of its meanings and ideals.

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As for the objective restriction of freedom, we mean thereby the restrictions imposed on an individual in the Islamic society from without by dint of the religious law *(shar')*. The objective limitation of the freedom in Islam is based on the principle which says that there can be no freedom for an individual in respect of such kinds of activities which according to the sacred laws *(share ah)* run contrary to the ideals and objectives in whose necessity Islam believes.

The implementation of this principle was materialised in Islam in the following way:

In the first place, the *sharīʻah* has, in its general sources, banned certain economic and social activities, which, in the opinion of Islam, stand in the way of materialising the ideals and values adopted by Islam, such as usury and monopolisation etc.

Secondly, the *sharīʻah* has laid down the principle of ruler *(waliyyu 'l-amr)* supervising the general activities of the people in the country and the States' intervention with a view to safeguard and promote general (public) interests, by means of restricting the freedom of the individuals in their activities. It was necessary for Islam to lay down this principle so that it could ensure continued materialisation of its ideals and meanings of social justice with the passage of time, because the demands of the social justice which Islam calls for, differ with differing economic conditions of the society and its material circumstances. Because it may be that doing of a certain work is harmful to the society and its entity at one time and not at another. It is thus not possible, therefore, to give details thereabout in definite constitutional forms. The only way towards that end is to empower the ruler *(waliyyu 'l-amr)* to discharge his duties as a supervisory authority, directing and restricting the freedom of the individuals to do or not to do the activities which are permissible under the religious law *(sharʻ)* in accordance with the Islamic ideals in the society.

The original legislative authority in respect of the principle of supervision and intervention is contained in the Qurãnic verse:

أَطِيعُوا ٱللَّهَ وَأَطِيعُوا ٱلرَّسُولَ وَأُولِى ٱلْأَمْرِ مِنكُمْ. (النّساء، ٥٩)

Obey God, and obey the Messenger and those in authority among you. (4:59)

The text of this Qur'ãnic verse clearly proves the obligation of obeying the authorities *(uli 'l-amr).* There is no difference of opinion among the Muslims that اولى الامر *uli 'l-amr* (authorities) means those who wield legal authority in the Muslim society, though there exists difference of opinion among them in respect of determining them and their attributes. Thus a high Muslim authority enjoys the right of obedience and interference to safeguard the interest of the society and to maintain Islamic balance therein provided the interference was within the limits of the sacred *sharī'ah.* Therefore it is not 'permissible for the State or the ruler *(waliyyu 'l-amr)* to make usury lawful or allow fraud or to suspend the law of inheritance or to nullify an ownership in the Muslim society established on an Islamic basis. A bona fide ruler (authority) in Islam can only interfere in respect of the activities and deals which are permissible under the Islamic law. He can thus prohibit or order such activities as to suit the Islamic ideals of the society. Thus reclamation of land, mining of minerals and digging of canals etc. are such kinds of activities and business as have been permitted generally by the Islamic law *(sharī'ah).* If the ruler (authority) deemed it necessary to prohibit or order any of these pursuits remaining within his powers, he could do that, in accordance with the above mentioned principle.

The Holy Prophet, himself used to enforce this principle of interference when need demanded and the situation necessitated

interference and direction. An instance of this is provided by an authentic tradition in which the Prophet is reported to have decided among the people of Medina in a case about the watering troughs for the palm trees by saying that surplus of anything should not be denied (to others). He also gave a verdict in a case that arose among the people of desert saying that surplus water should not be denied nor the surplus herbage. Similarly he said, "Harm not and be not harmed".[1] The jurisprudents know it very well that to deny surplus of water or anything to others is not unlawful in a general way under the Islamic law *(sharĩ'ah)*. In the light of this we realise that the Prophet did not prohibit denial of surplus of water or anything else in his capacity as a Prophet conveying general Islamic tenets but he did that only in his capacity as the authority responsible for organising economic life of the society and directing it in such a way that it did not go against the general (public) interest. That may be the reason why the narrator has expressed the Prophet's prohibition with the term *qaḍã'* (decision) rather than *nahy* (forbiddance) in view of the fact that *qada'* (decision) is a sort of *hukm*[2] (Judgement). We will take up this principle (of supervision and interference) for discussion in greater detail and more elaborately in a future study.

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1. *al-Wasã'il, III, Kitãb Iḥyã'u 'l-mawãt.*

2. Some Jurisprudents believe in respect of the Prophet's verdict prohibiting denial of surplus water or anything else that the prohibition falls under the category of undesirable *(makruh)* rather than the unlawful *(ḥarãm)*. They have had to give such an interpretation to the Prophet's verdict, stripping it of its character of necessity because they think that the tradition could be interpreted in two ways only; either the prohibition by the Prophet be taken to mean unlawfulness **ram) so* that the denial of surplus water and herbage be regarded being unlawful under the Islamic law *(shari`ah)* in the same way as the drinking (of wine) and other unlawful -matters. Or the prohibition be taken to mean encouraging preferring

3- THE PRINCIPLE OF SOCIAL JUSTICE

The third element of the Islamic economy is the principle of social justice embodied by Islam in the system of distribution of wealth in the Islamic society, having such elements and guarantees which enable the system to enforce the Islamic justice and make it consonant with the values on which it is based. While including social justice in its basic principles, which constitute its economic doctrine, Islam did not adopt social justice in its general sense nor did it call for it as being open to every interpretation nor did it leave it to the human societies which differ in their views about social justice with the difference in their ideas about civilisation and their understanding about life. But Islam has defined its meaning and crystallised by means of a certain social plan and has been able to embody this planning in a living social reality all of whose arteries and veins pulsate with the Islamic concept of justice.

Thus it is not sufficient to know Islam's call for social justice but we must also have knowledge of its detailed pictures about justice and its peculiar Islamic sense.

The Islamic form of social justice comprise two general principles, each having its own lines and details. The first one is that of general reciprocal responsibility and the other one is

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the benevolence of the owner to give in charity his surplus wealth. Since the former interpretation is alien to the jurisprudic sense, it is necessary to adopt the latter one. But in reality this does not justify interpretation of the Prophet's verdict as conveying the sense of desirability as long as it was possible to retain the character of necessity and compulsion for it, as is evident from the wording, and to understand it as being a decision given by the Prophet in the capacity of *waliyyu 'l-amr* keeping in view the peculiar circumstances in which the Muslims lived and not as being a general legal verdict declaring the matter in question unlawful like the drinking (of wine) and gambling.

that of social balance. It is through reciprocal responsibility and the balance, with their Islamic sense, that just social values are materialised and it is therewith that Islamic ideals of social justice come into existence as we shall see in the coming chapter.

The measures taken by Islam towards bringing about a better human society over its radiant experiment clearly showed how great an importance it attached to this main element of its economy.

Attachment of this importance was reflected clearly in the first address given by the Prophet at the time of the first political activity conducted in his new State.

It is narrated that the Prophet inaugurated his directive declarations in the following address:

> O people, send forth (some good) for yourselves. By Allãh, one of you will certainly be stunned leaving behind his sheep without a herdsman, and then his Lord would say to him, "Did not my Messenger come to you and convey (My message)? I granted you bountiful wealth and favoured you. So what did you then send forth for yourselves?!" Thereupon, he would look at the right and left and would find nothing there, and then he would look in front of him where he would see nothing but the Hell. Therefore anyone could possibly save himself from the fire (of Hell) even though by means of a portion of a date, he must do it. If he does not have (even) that, he (should secure safety from Hell) by uttering a pleasant word, because a good deed is rewarded from tenfold to seven hundred. May peace and God's blessing and mercy be on you.

He started his political activity by fraternisation between the emigrants *(muhãjirũn)* and the helpers *(anṣãr)* and enforcement of the principle of reciprocal responsibility, with a view to materialising the social justice which Islam intends.

Thus the main elements of the Islamic economy are as

under:

Firstly: multi-form ownership in the light of which the distribution system is defined.

Secondly: freedom restricted by Islamic values in the fields of production, exchange and consumption.

Thirdly: social justice which ensures happiness to the society based on reciprocal responsibility and balance.

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There are two basic characteristics of the Islamic economy, which radiate in its various lines and details. They are: objectivism and moralism. Thus the Islamic economy is realistic and moral in its objectives which it aims at, as also in the method which it adopts for that purpose.

Thus it is an economy which is realistic in so far as its aim goes as in its system and laws it aims' at, such objects as agree with humanity, its nature, its tendencies and its general characteristics. It always tries not to oppress humanity in its legislative account nor does it make humanity hover round in high imaginary atmospheres beyond its power and possibilities. But it always bases its economic planning on man's realistic views and aims at realistic objects which are in consonance with that view. An imaginary economy such as the Communist one may happily adopt base on an realistic objective and aim at materialising a new humanity free from all egoistic tendencies and capable of distributing among it works and wealth without the need for a governmental weapon (means) to conduct the distribution which is free from all sorts of differences or struggle. But this does not agree with the Islamic legislative nature and its character of being objective in its aims and objects.

It (Islamic economy) is — so far — realistic in its method too. Thus, just it aims at realistic objectives, possible to be

achieved, it also provides realistic material guarantee for their achievement and does not suffice with guarantees of advice and direction which are tendered by preachers and the preceptors, because it wants to achieve those objects and therefore it does not leave them at the mercy of chance or fate. For instance, while it aims at bringing about general reciprocal responsibility in the society, it does not achieve it by means of advice and incitement of sentiments only but it also resorts to legislative guarantee to ensure its achievement in any case.

The second quality of the Islamic economy is the moral one, means, so far as the objective goes, in achieving its economic life of the society, Islam does not derive support from material and natural conditions separate from man himself, as Marxism gets inspiration, in respect of its objectives, from the situation of the productive powers and their conditions. It only looks at those objectives as being an expression of practical values which it is necessary to materialise from the moral aspect. For instance, when it decides to insure the life of a worker, it does not believe that this social insurance provided by it springs from material conditions of production, for instance. But it regards it a representative of a practical value which must be materialised, as we shall see in detail during the discussions in this chapter.

The moral quality means — in respect of method — that Islam attaches importance to the psychological factor in matters of the method it adopts to achieve its aims and objects. Thus in adopting method to achieve that end does not attach importance to the objective aspect alone. Thus it takes particular pains to mingle the personal and psychological factor with the method which help those objective materialise. For instance, money (wealth) is taken from the rich to fulfil the (need of) the poor and thereby the objective purpose of the Islamic economy behind the principle of reciprocal responsibility comes into being. But this is not

the whole question in Islam's account but there is the method (also) whereby the general reciprocal responsibility materialises because this method may sometimes simply mean use of force to wrench tax from the rich to meet the needs of the poor. Although this is sufficient to materialise the objective aspect of the issue, that is situation of the poor, yet Islam does not establish this, as long as the method of materialising the reciprocal responsibility was bereft of the moral impulse and factor of goodness in the rich person. That is why Islam intervenes and makes financial duties, whereby it seeks to bring about the reciprocal responsibility, obligatory religious duties, which must spring from luminous personal impulse urging man to participate in the materialisation of the objects of the Islamic economy in a conscious manner seeking thereby God's pleasure and blessing.

No wonder that Islam is so much concerned with the personal factor and is so anxious to make it spiritual and ideological, in accordance with its aims and objectives and meanings. Because the personal factors which dash together in man, go a long way in constituting his personality and determining his spiritual content in the same way as the personal factor has a great bearing on social life and its problems and the solution thereof. It is clear to all today that the personal factor plays a role in the economic field. Thus it has a bearing on the periodical crises under which European economy groans. It also affects on the winding of supply and demand (positions), production capability of a worker and other elements of economy.

Islam's doctrine and teachings are therefore not confined to organising the outward form of the society but they go deep into its spiritual and ideological depths so that the internal content may be in consonance with Islam's economic and social plan. Towards this end it does not suffice with adopting any method which might ensure achievement of its aims and objects but it mingles

this method with the psychological factor and personal impulses which agree with those objectives and their meanings.

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II — ISLAMIC ECONOMY IS A PART OF A WHOLE

To understand the Islamic economy, we must not study it by one part thereof excluded from others. For instance, we should not study Islam's prohibition of usury or the permission about private ownership as being separate from other parts of the general plan of the Islamic economy. Similarly it is not permissible to study the whole of Islamic economy as being something separate and a doctrinal entity independent of the rest of the religious' entities including the social, political and other ones and of the nature of the relations existing between these entities. We must understand the Islamic economy as a part of the general system of Islam which organises different aspects of life in the society. Just as the view of a certain thing perceived as a part of a general form comprising a group of things differs from a view thereof while separated from that form or from the view thereof when looked at as a part of another system so that a line when viewed amidst a certain arrangement of lines sometimes looks short, and looks long in different arrangement of lines, similarly general forms of social doctrines play an important role in the assessment of their economic plans. It is therefore wrong not to attach due importance to the general Islamic system and take into account the nature of the relation ship between the economy and other parts of

the religion and their mutual effect on its general organic nature.

We must also not separate the religion of Islam in general from its peculiar ground for which it is prepared and in which all the elements of existence and strength of the religion have been provided. Just as we comprehend the perceptible forms on different grounds and each form agrees with a certain ground so that a certain ground does not suit another form nor does that form agree with another ground, similarly the general form of the religion, whatever it may be, needs a ground and soil which might be compatible with its nature and which might strengthen it with faith, meanings and sentiments compatible thereto. It is therefore necessary that, while assessing the general form of the religion, we must study it on the basis of the soil and ground prepared for it that is within its general framework.

It is thus evident that the Islamic economy is interlinked in its lines and details and that it plays its role as a point of a general system of life which has a ground peculiar to it. A complete Islamic society is materialised only when the form and the ground are achieved together and when the vegetation and soil both are obtained. The Islamic economy could be discussed properly only when it is studied as a plan bound together and as a part of the general way of life whose role is based on the soil and ground prepared for Islam and the real Islamic society.

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The soil or the ground for the Islamic society and its social doctrine is composed of the following elements:

Firstly, belief which is the central basis in the Islamic thinking, which defines a Muslim person's main outlook towards the world in a general way.

Secondly, the concepts which reflect Islam's view point in

the description of things in the light of the general outlook crystalised by the faith.

Thirdly, sentiments and feelings which Islam undertakes to disseminate and promote to the row of those meanings, because the meaning being an Islamic notion about a certain event creates in the mind of a Muslim a special feeling about that event and defines his sentimental attitude towards it. And Islamic concepts with their role are placed in the light of the basic Islamic belief. As an example for that, let us take piety (God-fearing, *taqwa).* Thus under the shadow of the belief of God's unity the Islamic meaning of piety *(taqwa)* grows according to which piety *(taqwa)* is the criterion of nobility and preference among human beings. This concept gives birth to an Islamic sentiment for piety *(taqwa)* and the pious people *(muttaqĩn); a* sentiment of greatness and respect.

So these are the three elements; belief, concepts and sentiments which participate in the making of the congenial soil for the society.

Then comes — after the soil — the role of the general Islamic way of life as an inseparable entity extending to various walks of life. It is only when the Islamic society fully attains its soil and general form that we can expect of the Islamic economy to fulfil its unique message in the economic life and to ensure for the society means of happiness and welfare and it is only then that we can pluck therefrom the greatest fruit. But if the Islamic message is enforced in a certain walk of life, separated from other ones, it is wrong to expect of the greater Islamic message to materialise all its objectives in that walk of life. Because in view of the close link existing between different sides of the greater Islamic plan of the society would make it like a plan made by a most expert engineer for a beautiful building. This plan can never reflect the beauty and grandeur — as designed by the engineer — except when the plan is implemented in toto. But if we utilise

it to build only a part of the building, we have no right to expect from this part to be as designed by the engineer by drawing the entire plan. The same is the case with the Islamic planning. Because Islam has established its peculiar path a complete means to materialise happiness for humanity provided this great system is enforced in an Islamic environment which is based entirely on Islam in respect of its existence, thoughts and entity and provided it is enforced in toto, so that its different parts strengthen one another. Thus if a part of the Islamic system is segregated from its environment and from other parts, it would mean to deprive it of the necessary conditions under which it could achieve its high object. In such a case, Islamic directions could not be blamed for being totally or partially incompetent of guiding the society. Because in such a case, it would be like scientific laws which bear fruit only when the necessary conditions are found.

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We cannot bring out, in this exposition of ours, all the aspects of the mutual interlinking of (different parts of) the Islamic economy and of the mutual action and interlink existing between it and all peculiarities and Islamic elements connected therewith. We confine ourselves to giving examples thereof as under:

1- The connection of the Islamic economy with the belief which constitutes the source of spiritual provision of the religion. Because the belief makes a Muslim condition himself according to the religion and it lends to the religion a character of conviction and a value of its own, irrespective of the nature of the objective results registered in the field of practical implementation, and creates in the mind of the Muslim a feeling of personal satisfaction under the shadow of the religion, as being something emanating from the belief which he professes. Thus the force of

implementation, the spiritual and religious character and personal satisfaction are all characteristics of the Islamic economy, provided by the basic belief on which it rests. That is why these characteristics do not come at the time of discussion except when the Islamic economy is studied in the light of belief and the extent to which it reacts thereto.

2- The connection of the Islamic economy with the conception of Islam about the world and life and its peculiar way of explanation of things like the Islamic concept of private ownership and profit. Thus in Islam's view ownership constitutes a right carrying responsibility and not an absolute authority. Similarly, it lends to profit a meaning much wider than the one given to it in the purely material accounting. Consequently many activities are included in the purview of profit, in its Islamic sense, which are regarded as a loss according to another non-Islamic view.

It is but natural that this understanding of Islam about the private ownership should have its bearing on the manner of availing of this right and on restricting it according to its Islamic framework. It is also natural that the economic field should be affected by the Islamic sense of profit to the extent defined by the depth of the meaning and its concentration and consequently the meaning influences the course of the Islamic economy in its implementation. It must therefore be studied through that and it should not be isolated from the effects of different Islamic meanings, during the implementation.

3- The connection of the Islamic economy with those sentiments and feelings based on its peculiar understanding, which Islam promotes in the Muslim environments, like the sentiment of general brotherhood, which breaks forth in the mind of every Muslim a fountain of love for others and sharing in their weal and woe. This fountain grows and becomes gushy commensurate with the degree of the sentiment of brotherhood and the fusion

of man's spiritual entity with the Islamic sentiments and the education enforced in the Islamic society. These sentiments and feelings play an important role in conditioning the economic life and help the religion in achieving its objects.

4- The connection between the economic doctrine and the financial policy of the state to such an extent as may let the financial policy be regarded a part of the programme of the economic doctrine of Islam. Because it has been formulated in such a way as to meet the general economic policy and work for the achievement of the objectives of the Islamic economy. Thus the financial policy in Islam does not suffice with providing the State with necessary expenses, but it aims at participating in establishing social balance and general reciprocal responsibility. That is why it was necessary to regard the financial policy a part of the general economic policy and to include the rules about the State's financial organisation in the general edifice of legislation for the economic life as we shall see in coming discussions.

5- The connection between the Islamic economy and the political system in Islam whose separation from each other leads to mistake in the study. Thus the ruling authority enjoys wide economic powers and large properties which it manages as it deem fit. These powers and properties, must always be linked, in the study, with the authority in Islam and the guarantees which Islam has provided for the integrity and uprightness of the *waliyyu 'l-amr* (ruler), that is to ensure his immunity from error or counsel and justice, according to different schools of thought in Islam. Thus in the light of these guarantees we can study the position of the State in the economic doctrine and believe in the rightfulness of the powers and rights given to it in Islam.

6- The connection between the elimination of the usurious capital and other Islamic tenets about partnership and general

reciprocal responsibility and the social balance because of the prohibition of usury is studied in isolation it would give rise to serious problems in the economic life. But if we consider it as being a part of a single inter-connected operation, we would find that Islam has provided clear solutions for these problems which are in consonance with the nature of Islamic law and its aims and objects. This is so in the rules about partnership, balance, reciprocal responsibility and the money, as we shall see in a coming discussion.

7- The connection between some rules about private ownership in the Islamic economy and those relating to *jihãd* (religious war) which regularises relations of the Muslims with non-Muslims in times of war. Thus Islam has permitted *waliyyu 'l-amr* to enslave the prisoners (of war) and possess them as a part of the booty and to distribute them among the warriors in the same way as other articles of booty are distributed. The crusade enemies of Islam are wont to present this, rule of the *sharĩ'ah* (Islamic law) isolated from its conditions and conjuctures with a view to show that Islam is a code of law which provides for enslavement wherefrom humanity has been suffering ever since the dark days of history and from which it has been delivered by the modern European civilisations alone, which have liberated humanity for the first time and has wiped off slime and disgrace from it.

But to make an honest study of Islam and its rule about the booty, we must, first of all, know when a thing is regarded as a booty *(ghanĩmah)* under the Islamic law. It is after this that we could know as to how and to what extent had Islam allowed *waliyyu 'l-amr* to enslave a prisoner of war being a booty and who was this ruler who had been authorised to enslave a prisoner as such. Having comprehended all these aspects, we would be in a position to see Islam's provision about the booty in the right perspective.

The basic condition for the concept of a booty, according to Islam, is that it should have been obtained in a legitimate war based on beliefs (ʿaqĩdah). Thus unless a war has the character of *jihãd* (religious war) the wealth obtained as the result thereof cannot be treated as booty and this depends on two things:

Firstly, the war should have been urged under the orders of *waliyyu 'l-amr* with a view to promote the cause of Islamic propagation. Thus the wars like those were waged in pre-Islamic times with the purpose of looting and plundering, or the battles aimed at securing the wealths and markets of the countries such as the capitalist wars, have all nothing to do with *jihãd.*

Secondly, the Muslim preachers should first of all make an announcement about their Islamic message and explain its main sign-posts supported by proofs and arguments, till Islam's (truthfulness) had been fully established and no room was left for others for a proper logical arguments. If despite this they continued to refuse (to accept) the light (of Islam) no alternative was left for the Islamic call, as an international ideological religion based on real benefits and well-being of humanity, but to make its way through material force, that is the armed *jihãd* (war). Under such circumstances alone are the war gains regarded booty, in the eyes of Islam.

As for the treatment which is meted out to a prisoner of war as a part of the booty, it consists of one of the three alter-natives, namely, pardoning, setting him free by a ransom or to enslave him. Thus the enslavement is one of the three manners in which *waliyyu 'l-amr* must treat a prisoner of war.

We should know in this regard, that *waliyyu 'l-amr* is responsible to adopt the most suitable of the three alternative manners to treat the prisoner of war, one which is most compatible with the general interest, as has been stated by al-Fãdil and ash-Shahĩd ath-thãni and other Muslim jurisprudents. More-over, Islam has not permitted waging of war to carry its call to

non-Muslim country unconditionally, as a general rule. It has allowed it only in case of an infallible leader being available who might undertake leadership of the raid and direction of the Islamic march in religious battles. Keeping in view these two realities we would come to the conclusion that Islam does not allow enslavement of a prisoner of war except when it was more suitable than pardoning and ransoming, both. That too has not been permitted except for an infallible *waliyyu 'l-amr* who can commit no mistake in deciding which (of the three alternative treatments) was the most in the fitness of things.

There is nothing in this rule for which Islam could be blamed. But it is a judgement in which social doctrines, however different their notions be, agree on it. Because as at times to enslave is better than both pardoning and ransoming. This is so in case the enemy adopted enslavement of his prisoners of war. In such a case, therefore, it becomes necessary to deal with the enemy by tit for tat. When the circumstances made the enslavement more appropriate than both pardoning and ransoming then why should Islam not allow it? No doubt Islam has not explained the circumstances in which enslavement would be more appropriate but this purpose has been fully served by leaving the decision in the matter to *waliyyu 'l-amr* who is infallible from error and passion and who leads the religious battle *(jihãd)* politically. He is, therefore, responsible for judging the circumstances and acting accordingly.

Looking at the rule of Islam about the prisoners of war, while it was enforced in the political life of the Islamic State, we find that the enslavement did not come into being except under those circumstances in which it was the most appropriate of the three alternative ways of treating the prisoners of war, because the enemy which the Islamic State encountered in the battle followed the same way in dealing with his prisoners of war.

There is, therefore, no ground for criticism or objection. There is no ground for criticising or objecting to the general rule allowing the enslavement, because Islam permitted to en-slave the prisoners when it was in consonance with the general interest in the opinion of the infallible ruler. Nor could there be any criticism or objection to its enforcement as it was done only under those circumstances in which the enslavement was the most appropriate of the three measures.

8- The connection between the economy and criminal legislation in Islam; thus the general reciprocal responsibility and the social guarantee in the Islamic economy throw light on the nature of punishment awarded in some crimes. The punishment of cutting off hand may be harsh to some extent in capitalistic environments in which they left it for the sake of mercy and difficulty of struggle. But in a society, which is Islamic, a congenial soil for Islamic economy and in which the members of the society line under the shelter of Islam, it is in no way cruel to deal with a thief harshly after the Islamic economy had provided him means of a free and respectable life and had eliminated all the motives which might oblige him to committing theft.

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III — GENERAL FRAME-WORK OF THE ISLAMIC ECONOMY

The economic doctrine of Islam is distinguished from other economic doctrines by its general religious framework. Because Islam is the framework which comprehends all aspects ways of life in Islam, as while dealing with every walk of life, Islam links it with religion shaping it in the framework of man's religious relationship with his Creator and the world to come.

It is this framework which enables the Islamic system to ensure success and the materialisation of general social interests of man as these social interests cannot be provided but through religion.

In order to make this point clear, we must study human's interests in his subsistent life and the extent to which they can be provided. It is after doing this that we can realise the aforesaid fact namely, that man's social interests cannot possibly be secured but by means of a system which has a proper religious framework.

While studying man's interests in his subsistent life, we may divide them in two groups.

Firstly, those man interests which nature provides him like medicinal herbs, for instance, as man's interest lies in obtaining them from nature. This interest has nothing to do with

his social relations with others. But being subject to harmful germs, man stands in need of the herbs, irrespective of whether he lives alone or amidst a mutually connected society.

Secondly, those interests which the social system provides for him, as being a social being related with others, like the one, a man derives from the social system when he is allowed to exchange his products with those of others or when assurance is given to him of livelihood in cases of invalidity and unemployment.

We would call the first group `natural interests' and the second `social interests'.

In order that man may be able to take possession of his natural and social interests, he must be equipped with power to know them and ways and means to bring them about as also with the incentive to make him endeavour to secure them. Thus the herbs which are prepared and used for the treatment of consumption, for instance, are found with a man when he knows that there was a drug for this disease and he discovers how to prepare it and when he also has an incentive which urges him to benefit from its discovery and the preparation (of the medicines) from those herbs. Similarly, assurance about livelihood in cases of invalidity — being a social benefit — depends on the man knowing the benefit of this assurance and how it is legislated as also on the incentive which leads to this legislation and the enforcement thereof.

There are, therefore, two basic conditions without which it is not possible for humanity to enjoy full life provided with natural and social interests. The first is that man should know how these interests are materialised, then he should have an incentive to materialise these interests after having known them.

When we look at the natural interests of man, like the

preparation of herbs for drugs for treatment of tuberculosis, we find that man has been provided with the possibilities of obtaining these needs. Thus he possesses thinking power which enables him to realise manifestations of nature and the benefits hidden therein. Although this power develops slowly with the passage of time, yet it moves in a perfect line in the light of new experiences and experiments, and the more this power develops, the more the man is able to comprehend his interests and the benefits he could derive from nature.

Besides this thinking power, man possesses personal impulse which ensures his urge for his natural interests. Because man's natural interests meet personal impulse of everyone. This procurement of medicinal herbs, for instance, is not in the interest of an individual to the exclusion of another or to the interest of a group of people to the exclusion of another. The human society, therefore, feels impelled by force of personal impulses of the individuals which are all concerned with the interests and their need, being of personal benefit to all the individuals.

We thus realise that man has been created with a special psychological and ideological constitution which enables him to have natural requirements in abundance. The perfection of this side of his (man) livelihood is acquired through his experience of life and nature.

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As for the social interests, they also depend, in their role, on man's realisation of the social organisation that suits him as also on the personal impulse to bring about and materialise that organisation. So what is the lot of man from these two conditions in relation to the social interest and has been equipped with the thinking power to realise his social interests as also with the impulses that might make him to realise them in the same way in which he has been equipped therewith in relation to his natural

requirements??

Let us now take up the first condition. It is generally said that man cannot realise a social organisation that might ensure all his social benefits and also be compatible with his nature and general constitution, because he is most incapable of comprehending the social attitude, with all his characteristics, and the human nature with all its contents. Those holding this view reach the conclusion that it is essential that the social organisation be set up for humanity and it is not possible to leave humanity to bring about the organisation itself as long as its knowledge was limited and its thinking condition unable to understand thoroughly the secrets of the entire social problem.

On the basis of this, they forward the plea for the necessity of religion in man's life and for the need of humanity for (divine) messengers and prophets, who could determine, and apprise the people, by means of revelation, of the real interests of man in his social life.

But in our opinion, the problem appears more clearly when we study the second condition.

Because the basic point in the problem is not as to how man could realise social interests.) As a matter of fact the real problem is as to how man is made to materialise them (social interests) and organise the society in such a way as might ensure them. The crux of the problem is that social interest at times, does not agree with personal impulse because of its being inconsistent with special

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1. We have studied, at a great length, the valuation of the possibilities of man realising, ideologically, most suitable social organisation and understanding real social interests in our book *Contemporary man and the social problem.* We have explained therein the role of social and scientific experiments and how much services they have rendered in this regard.

interest of individuals. Because the personal impulse which ensured man's plunging towards the natural interests of humanity does not adopt the same attitude vis-à-vis the social interests. Thus while the personal impulse makes man try to bring about a drug for consumption, because the manufacture of the drug is in the interest of all the individuals, we find that this personal impulse itself stands in the way of materialising many of the social interests and prevents the bringing about of an organisation which might ensure these interests or the materialisation thereof. Thus insurance of livelihood of a worker in case of having unemployed is inconsistent with the interest of the rich people who would have to meet the expenses of this insurance. Similarly nationalisation of land goes contrary to the interests of those who could monopolise the same. The same is the case with every social interest because of its being in-consistent with the personal impulses of the individuals whose interest differs from that general social interest.

In the light of this we come to know the basic difference between the natural and the social interests as the personal impulses of individuals do not clash with the humanity's natural interests but they make the individuals bring them about and exploit consciously towards that end. Thus humanity had the possibilities which ensured its natural interests, in a gradual way according to the degree of these possibilities which grow with experiment. But the social interests are contrary thereto. Because the personal impulses which spring from man's love for his ownself and make him give preference to his own interest over that of others. These impulses stand in the way of exploiting sincerely the practical advertence which man possesses, towards making social interests being available in abundance and prevent a social organisation to be found out which might ensure these interests as also its enforcement.

It thus becomes clear that the social problem which

hinders social perfection of mankind lies in the inconsistency existing between the social interests and the personal impulses and as long as man is not equipped with possibilities of bringing about agreement between the social interests and the personal impulses rooted firmly in individuals, it is not possible for human race to achieve social perfection. Then what are these possibilities??

Certainly, humanity stands in need of an incentive that might agree with general social interests in the same way as the natural interests had the personal impulse as their ally.

CAN SCIENCE SOLVE THE PROBLEM?

Some people often say that science which has developed enormously ensures solution of the social problem because man — this giant — has been able to take all these great strides in the fields of thinking, life and nature and penetrate deep into its secrets and solve its most awful riddles so much that it has become possible for him to explode atom and release its gigantic power and explore the Universe and send his missiles thereto and he has ridden rockets and exploited nature's powers to communicate events taking place millions of miles away in such a way that they are seen and heard. This man who has made all these scientific achievements in a short period and who has emerged victorious in all the battles with nature is certainly capable, by dint of the knowledge and insight he has been endowed with, of building a happy and tenacious society and of bringing about a social system which may ensure social interests of humanity and therefore man was no longer in need of a source of inspiration in respect of his social attitude save science which has enabled him to achieve success in all fields.

Such a pretence, in fact, only betrays ignorance about the role of science in human life. Because however it may develop

and progress, science constitutes only a means to discover objective realities in different fields and to explain the facts in a mental way, reflecting them with the highest possible degree of precision and depth. For instance, it tells us, in the social field, that capitalism leads to the strict enforcement of iron laws about wages which are kept at a low level necessary for living just as it (science) tells us, in the natural field, that the use of a certain chemical substance leads to a dangerous disease taking birth firmly in one's body. Having shown this reality or that, science indeed fulfils its function and presents to man a new knowledge. But the fact of this disease or that awful law being existent does not end only because science had disclosed the relationship existing between that particular substance and the disease or between capitalism and the iron law. It is only by avoiding things that cause or lead to the disease that man could get rid of or prevent the disease. Similarly he could get rid of the iron law pertaining to wages only by eliminating the capitalist framework of the society. The question here arises as to what it is that ensures man getting rid of or preventing that disease or that framework. The reply in regard to the disease is quite obvious because personal impulsive the man possesses is sufficient enough to keep him away from that substance whose dangerous affects science had disclosed to us because it is contradictory to the personal interest of an individual. As for the iron law about wages and the elimination of the capitalist framework, the knowledge, obtained through science, about the relationship between that framework and that law, for instance, does not constitute an incentive to take an action to change the frame-work. The action in this regard needs an incentive but personal impulses do not always agree with one another as they differ with the difference of personal interest.

In this way we must differentiate between the scientific discovery and the action. Thus science discloses reality to some extent but it does not do something that develop it.

THE HISTORICAL MATERIALISM AND THE PROBLEM

Marxism says in this regard — on the basis of historical materialism — leave the problem itself as laws of history constitute a guarantee for its solution one day. Is not this the problem that personal impulses cannot ensure society's interest and its happiness and well-being because they spring from personal interests which differ in most cases with general social interests? This is no problem. This is but a reality about human societies since the dawn of history as everything has been going on in accordance with the personal impulse which is reflected in the society in class form and so the struggle rages between the personal impulses of different classes, victory always falling to the lot of the personal impulse of the class which controls the means of production. In this way, the personal impulse gets inevitably firm so that the laws of history bring about their basic solution of the problem by creating the class-less society wherein personal impulses vanish and are replaced by collective impulses in accordance with collective ownership.

As we have seen in our study of the historical materialism, such forecasts, which the historical materialism makes, do not stand on any scientific basis and it is not possible to wait for an effective solution of the problem thereby.

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Thus the problem remains as it is, a problem of the society in which the personal impulses are firmly rooted and as long as the upper hand was that of the personal impulse dictated to each individual by his own interest, the victory would be of the interest which commands power of enforcement. Who could, then ensure for the society, amidst the pressure of contradictory egos, to formulate its law in accordance with humanity's social

(collective) interest, as long as this law was an expression of the power prevailing in the society?!

It is not possible for us to expect from the social set-up, like the Government one, to solve the problem by force and make the personal impulses stop within the limits as this set-up takes birth from the society itself and therefore the problem therein is the same as in the society as a whole because it is the personal impulse which is firmly rooted in it.

It is realised from all this that the crux of the social problem is but the personal impulse and that this impulse is deeply rooted in man as it springs from his love for his own self.

Is humanity, then predestined to always live facing this social problem springing from its personal impulses and its nature and to suffer because of this nature?!

And is humanity an exception to Cosmos system which has provided every existence in the world with possibilities of attaining perfection and which is led by its nature to attain its respective state of perfection, as has been proved by scientific experiments besides philosophical arguments.

Hence comes the role of religion being the only solution of the problem because religion constitutes the only framework in which the social problem could be solved. This is due to the fact that the solution depends on agreement between personal impulses and general social interests and this agreement religion could provide to humanity. Because religion is the only spiritual power which can compensate for a man's temporary pleasures which he forsakes in his worldly life in the hope of gaining perpetual comfort. It is this power which can make man sacrifice his very existence out of the belief that its sacrifice of his temporal being only means a prelude to eternal existence and endless life. It can create, in his thinking, a new point of view *vis-à-vis* his interests and a meaning about the gain and loss higher

than their commercial and material meanings. Thus hardship constitutes a way to pleasure, and suffering of loss for the sake of society means gain just as to safeguard interest of others indirectly means safeguarding of one's own interest in a life more sublime and nobler than the present one. In this way are related the general social interests with the personal impulses, being beneficial for him in his religious account.

In the Holy Qur'ãn we find glaring emphasis having been laid on this, at different places. All this aims at forming this new viewpoint about an individual's benefits and gains. The Holy Qur'ãn, for instance, says:

...وَمَنْ عَمِلَ صَالِحاً مِنْ ذَكَرٍ أَوْ أُنْثَىٰ وَهُوَ مُؤْمِنٌ فَأُولَٰئِكَ يَدْخُلُونَ الْجَنَّةَ يُرْزَقُونَ
فِيهَا بِغَيْرِ حِسَابٍ. (المؤمن، ٤٠)

. . . but whosoever does a righteous deed, be it male or female, believing — those shall enter Paradise, therein provided without reckoning. (40:40)

مَنْ عَمِلَ صَالِحاً فَلِنَفْسِهِ وَمَنْ أَسَاءَ فَعَلَيْهَا (فصّلت، ٤٦)

Whoso does righteousness, it is to his own gain, and whoso does evil, it is to his own loss. (41:46)

يَوْمَئِذٍ يَصْدُرُ النَّاسُ أَشْتَاتاً لِيُرَوْا أَعْمَالَهُمْ* فَمَنْ يَعْمَلْ مِثْقَالَ ذَرَّةٍ خَيْرًا يَرَهُ* وَ
مَنْ يَعْمَلْ مِثْقَالَ ذَرَّةٍ شَرًّا يَرَهُ. (الزلزال، ٦—٨)

Upon that day men shall issue in scatterings to see their works, and whoso has done an atom's weight of good shall

see it, and whoso has done an atom's weight of evil shall see it. (99:6-8)

وَلاَ تَحْسَبَنَّ ٱلَّذِينَ قُتِلُوا فِي سَبِيلِ ٱللّٰهِ اَمْوَاتــاً بَلْ اَحْيَآءٌ عِنْدَ رَبِّهِمْ يُرْزَقُونَ.
(آل عمران، ١٦٩)

Reckon not those who were slain in Allãh's way as dead, but rather living with their Lord, by Him provided. (3:169)

مَا كَانَ لِاَهْلِ الْمَدِينَةِ وَمَنْ حَوْلَهُمْ مِنَ الْاَعْرابِ اَنْ يَتَخَلَّــفُوا عَنْ رَسُولِ آللّٰهِ وَلاَ
يَرْغَبُـوا بِاَنْفُسِهِمْ عَنْ نَفْسِهِ ذٰلِكَ بِاَنَّهُمْ لاَ يُصِيبُهُمْ ظَمَـأٌ وَلاَ نَصَبٌ وَلاَ مَخْمَصَــةٌ
فـي سَـبيـلِ آللّٰهِ وَلاَ يَطَؤُنَ مَوْطِئاً يَغيظُ الْكُفَّارَ وَلاَيَنالُونَ مِنْ عَدُوٍّ نَيْلاً اِلاَّ كُتِبَ
لَهُمْ بِهِ عَمَلٌ صَالِحٌ اِنَّ آللّٰهَ لاَ يُضيعُ اَجْرَ الْمُحْسِنينَ * وَلاَ يُنْفِقُونَ نَفَقَــةً صَغيرَةً
وَلاَ كَبيرَةً وَلاَ يَقْطَعُونَ وَادِيًا اِلاَّ كُتِبَ لَهُمْ لِيَجْزِيَهُمُ آللّٰهُ اَحْسَنَ مَا كَانُوا يَعْمَلُونَ.
(التوبة، ١٢٠—١٢١)

It is not for the inhabitants of Medina and for the Bedouins who dwell around them to stay behind the Messenger of Allãh, to prefer their lives to his; that is because they are smitten neither by thirst, nor fatigue, nor emptiness in the way of Allãh, neither tread they any tread enraging the unbelievers, nor gain any gain from any enemy, but a righteous deed is thereby written to their account; Allãh leaves not to waste the wage of the good-doers. Nor do they expend any sum, small or great, nor do they traverse any valley, but it is written to their account, that Allãh may recompense them the best of what

they were doing. (9:120-121)

This is the brilliant picture, the Holy Qur'ãn presents to connect the personal impulses with phuilanthropist deeds in the life and develops individual's interest in such a way to make him believe that his personal interests and humanity's real general interests as determined by Islam are interlinked.

Thus it is the religion which plays the basic role in solving the social problem by way of mobilising the personal impulse for the sake of general interest.

From this we come to know that religion constitutes a natural need for humanity. Because as long as nature forms the basis of personal impulses wherefrom springs the problem, it must have also provided possibilities for the solution of the problem so that man was not exceptional to other creatures which have all been provided by their nature with the possibilities which lead each of them to its respective state of perfection. These possibilities which human nature possesses for the solution of the problem are but an instinct of religiousness and the natural preparedness to link the life with religion and shape it in the general framework thereof.

The human nature then has two aspects, on the one hand it dictates to man his personal impulses wherefrom springs the great social problem in the life of man (the problem of inconsistence between impulses and the real general interests of human society) and on the other, it provides man with the possibility of solving the problem through the natural inclination towards religiousness and arbitration of religion in life in such a way as may bring about agreement between general interests and personal impulses. In this way, nature has fully performed its function to guide man to his perfection. If it (nature) remained creating problem

without enabling man's nature to solve it, it would have meant that humanity remained comforted with the problem, unable to solve it and continuously facing its evils complications. Thus Islam has very clearly affirmed in the Qur'ãnic verse:

فَأَقِمْ وَجْهَكَ لِلدِّينِ حَنِيفًا فِطْرَتَ ٱللَّهِ ٱلَّتِي فَطَرَ ٱلنَّاسَ عَلَيْهَا لَا تَبْدِيلَ لِخَلْقِ ٱللَّهِ
ذَٰلِكَ ٱلدِّينُ ٱلْقَيِّمُ وَلَٰكِنَّ أَكْثَرَ ٱلنَّاسِ لَا يَعْلَمُونَ. (الروم، ٣٠)

So set thy face to the religion, a man of pure faith — Allãh's original upon which He originated mankind. There is no changing Allãh's creation. That is the right religion; but most know it not. (30:30)

Therefore this verse affirms:

Firstly, that religion is a part of human nature which is common to all human beings, and that there could be no change therein.

Secondly, that the religion which forms part of human nature is not but the true *(ḥanĩf)* one, that is the religion of unity (of God); the pure. Because it is the religion of unity alone which can perform the great function of the religion and organise humanity practically and socially, ensuring social interests. As for the religions of idolatry or polytheism described as such by the holy Qur'ãn, they are in fact an outcome of the problem and therefore they cannot possibly be a remedy for it, because, as stated by the Prophet Joseph to his two co-prisoners: *That which you serve, apart from Him, is nothing but names your-selves have named, you and your fathers; Allãh has sent down no authority touching them;* (Qur'ãn, 12:40). They are the offspring of personal impulses which have dictated idolatrous religions to the people, in accordance with their various personal interests, in

order to make them deviate in an unnatural way, from their natural inclination towards the true *(ḥanĩf)* religion and stand in their way to properly respond to their original religious tendency, and thirdly, that the true religion which forms human nature is distinguished by its being curator of life *(ad-dĩnu ʹl-qayyim)* and capable of governing the same and moulding it into its general framework. But any other religion which does not undertake to guide or direct the life, cannot fully meet man's natural demand for religion nor can it possibly treat the basic problem in man's life.

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From this we derive a number of concepts which Islam has set about religion and life.

The basic problem in man's life, therefore, springs from nature.

Because it is the problem of personal impulses, being variant from and inconsistent with the general interests.

Nature, at the same time, equips humanity with the remedy.

And this remedy is only the true *(ḥanĩf)* and guiding religion. Because it alone is capable of bringing about consistency between personal impulses and unifying its interests and practical standards.

The social life, therefore, must have a perfect religion.

And, similarly, the social organisation in different walks of life must necessarily be placed in the framework of that religion which is competent to respond to the nature and is capable of treating the basic problem in man's life.

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In the light of this we realise that the Islamic economy, being a part of social and comprehensive system of life, must be included

in the general framework of that system which is religion. Thus the religion is the general framework of our doctrinal economy.

And the function of the religion as being a framework for the social and economic system in Islam is to bring about agreement between personal impulses and special interests, on the one hand, and the real general interests of the human society from the point of view of Islam, on the other.

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IV — ISLAMIC ECONOMY IS NOT A SCIENCE

Each one of the economic doctrines we have put forth constitutes a part of a complete doctrine covering different fields and walks of life. The Islamic economy, thus, is a part of the religion of Islam which covers various branches of life; and the capitalist economy is a part of the capitalist democracy, which, with its system, covers all groups. Similarly, the Marxist economy is a part of Marxist doctrine which crystallizes the entire social life in its peculiar framework.

These doctrines differ from one another in their basic ideological seeds and their main roots wherefrom they derive their spirit and their entity and consequently they differ in their characters.

Thus the Marxist economy, in the opinion of Marxism, carries a scientific character as it is regarded, in the opinion of its supporters, an inevitable result of the natural laws which control and influence history.

Contrary to this is the capitalist doctrine, because, as we have seen in the earlier discussion, its exponents did not formulate it as a necessary results of the nature of the history and its law, but they had adopted it only as an expression of the social form which agrees with the practical values and the ideals they embrace.

But the religion of Islam does not claim to have the scientific character like the Marxist doctrine nor is it without a certain basis of conviction and main view about the life and existence, like capitalism.[1]

When we say about the Islamic economy that it is not a science we mean to say that Islam is a religion which ensures a call for organising economic life in the same way as it deals with other aspects of life and that it is not a science of the type of the science of political economy. In other words, it means a revolution aimed at changing a corrupt facet into a sound one and not an objective explanation of the facet, so when it lays down the principle of dual ownership for instance, it does not claim thereby that it explains historical fact about a certain stage in the life of humanity or that it reflects the results of the natural laws of history as Marxism does while breaking good tidings about the principle of socialist ownership, as being an inevitable condition for a certain stage of history and the only explanation thereof.

The Islamic economy in this regard, thus, resembles the doctrinal capitalist economy in being an operation of changing the state of affairs rather than one of explaining it. Thus the doctrinal function *vis-a-vis* Islamic economy is to reveal the full picture of the economic life in accordance with the Islamic *sharĩ'ah* (law) and to study the ideas and general understandings which radiate from behind that picture like the idea of the separation of the form of distribution from the nature of production and such like ideas.

As for the scientific function *vis-à-vis* Islamic economy, its role thereafter is that it may disclose the real course of life and

1. Vide the discussion of the difference between the religion of Islam and the capitalist doctrine in this regard in the preface of *Falsafatuna.*

its laws in an Islamic society wherein the religion of Islam is enforced completely. So the scientific investigation takes the doctrinal economy in Islam as an established principle of the society and tries to explain it and link the events therein with one another. It is, thus, in this regard, like the political economy, for the capitalist scholars of economy who first laid down their doctrinal lines and then started explaining the real state of affairs within those lines, studying the nature of the laws firmly rooted in the society wherein they are enforced. This study of theirs resulted in the science of the political economy.

In this way a science may be constituted for the Islamic economy — after being studied as a comprehensive religious study — through the study of the fact in this framework. The question is this: when and how is it possible to lay down (formulate) the science of the Islamic economy, as the capitalist formulated the science of the political economy, or in other words, the science of the economy which explains the events of the capitalist society??

The answer to this question is that the scientific explanation of the events of economic life centres round over of the following two matters:

One: Collecting of economic events from the realistic experience of the life and arranging them scientifically in such a way as may reveal the laws effective in the field of that life and its special conditions.

Two: Starting a scientific research from particular admitted facts and deducing in their light, the economic direction and course of the events.

As for the scientific explanation on the basis of the first one (of the above mentioned two matters), it depends on the incarnation of the religion in the actual existing entity in order that the researcher could record events of this fact (state of affairs)

and deduce their phenomena and their general laws.

And this is what the capitalists accomplished, when they lived in a society which believed in capitalism and which enforced it. They were consequently, afforded an opportunity to put their theories on the basis of the experience of the social reality in which they lived. But anything like this is not available to the Muslim economists as long as the Islamic economy remained away from the stage of life. They cannot, thus, have experiments from their life to-day about the Islamic economy during the implementation, so that they may realise, in the light thereof, the nature of the laws that dominate a life which is based on Islam.

As for the scientific explanation on the basis of the second matter, it is possible to avail of it to explain some of the facts which are characteristic of the economic life in an Islamic society, by starting from certain religious points and deducing their affects in the field of hypothetic implementation and formulating general views about the economic aspect in an Islamic society in the light of these religious points.

For instance, it is possible for an Islamic research scholar to say that the interests of trade are in consonance, in an Islamic society, with those of the financiers and bankers because a Bank, in an Islamic society, is based on partnership rather than the interest. It therefore does business with the money of its customers and shares the profit with them with a certain percentage and ultimately its monetary fate depends on the extent of the commercial profit it earns and not on the interest it gets on loans. This phenomenon that of the agreement between the interests of the Bank and those of the trade, is by nature an objective on which the researcher starts to deduce from a point, that is, annulment of the system of the Bank interest in the Islamic society.

The research scholar can also proceed from a point like this

to establish another objective phenomenon, that is, deliverance of the Islamic society from a main factor responsible for the crises from which the economic life suffers in a capitalist society. Because the production and consumption in a society based on the interest are hindered by this big part of the natural wealth, which stores up the greediness for the profit gained by means of the interest, and which withdraws, thereby, from the fields of the production and consumption and this leads to the stagnation of a large part of the social production of the capitalist and consumer goods. Therefore, when the society is based on. Islamic economy in which interest is totally banned and wherein boarding is also forbidden or it is taxed, it would result in all the people coming forward to spend their wealth.

Thus in these explanations we suppose a social and economic reality stands on certain bases and adopts the explanation of the synthetic fact and the discovery of its general characteristics in the light of those bases.

But these explanations do not constitute, for us with exactitude scientifical concept of the economic life in the Islamic society, until the material for scientific study is collected from the experiments of the tangible reality. Because very often differences occur, often, in the real life of the system and the explanations, put forward, of this life on the basis of hypothesis as happened in the case of the capitalist economists who had built most of their analytic theories on a synthetic basis as the result of which they came to such results as contradicted the reality they lived in, in order to discover a number of factors in the actual field of life, not taken in the field of hypothesis.

Moreover, the spiritual and ideological element or in other words, the psychological temperament of the Islamic society, has a great influence on the course of economic life. But this temperament has no limited degree or a particular form which

could be supposed in advance and whereon different theories could be based.

Therefore, the science of Islamic economy cannot possibly take real birth unless this economy is incarnated in the entity of the society, with all its roots, signposts and details and the economic events and experiments through which they pass are studied systematically.

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V — RELATIONS OF DISTRIBUTION ARE SEPARATE FROM THE SHAPE OF PRODUCTION

People practise two different operations in their social life, one, the operation of production and the other, operation of distribution. Thus on the one hand they indulge in a battle with nature in order to harness it to their desires, arming themselves, in this battle, with all the tools of production obtained through their experience and experiment. On the other hand these people establish among themselves certain relations, which determine the connection of the individuals between them, in different affairs of life. These are the relations to which we give the name of social system and under this fall the relations of the distribution of the wealth produced by the society. The individuals, thus, get their gains in the operations of production, from the nature while under the social system which determines their relations, they mutually divide those gains.

Obviously, the operation of production is ever in the process of development and always remains changing basically, according to the development of science and the depth thereof. Thus while formerly man used to employ the plough for production, he has now started using electricity and atom for the purpose. Similarly the social system which determines mutual relations of the people

including the distribution relations, has also not had a stationary form in man's history but it has assumed different forms and shapes with different and changing circumstances.

The basic question in this regard is as to what is the relationship between the development of the forms of production and that of the social relations including the relations of distribution (the social system)?

This point is regarded as the centre of the main difference between the Marxist and the Islamic economies that is one of the important points of the difference between Marxism and Islam, in general.

The Marxist economy, thus, is of the opinion that every development in the operations of production and its form must necessarily be accompanied by a development in the social relations, generally, and the relations of distribution, in particular. Thus it is not possible that the form of production may undergo a change while the social relations retain their old form just as it is not possible for the social relations to precede the form of production in their development. From this Marxism infers that it is impossible for one social system to retain its existence with the passage of time or be suitable for human life in numerous stage of development because the forms of production always remain developing during human experiment, and the social relations also develop in accordance therewith. Thus the system which suits the society of electricity and atom is other than the one which suited the society of handicraft industry, so long as the form of production was different in the two societies. On this basis does Marxism present the socialist doctrine as being the necessary cure for the social problems in a certain historical stage, in accordance with the demands of the new form of production in that stage.

But Islam rejects this so-called inevitable relationship between the development of production and that of the social

system. It is of the opinion that man has two fields so that in one of them he practises his work with the nature, trying by different means to exploit it and control it with a view to meeting his needs. In the other (field) he deals with his relations with other individuals in various fields of social life. The forms of production are the outcome of the first field while social systems are that of the second one. Both of the fields with their historical existence have been subjected many developments in the form of productions in the social system but Islam does not believe in that inevitable mutual link between developments of forms and those of social systems. That is why it believes that it is possible to retain one single social system, with its entity and capability despite the passage of time, however different the form of production might be.

On the basis of this principle (principle of segregation of social system and forms of production) does Islam present its social system including its economic doctrine, as being a social system suitable for the nation in all the stages of its production and as being competent enough to ensure its happiness, when it possesses the secret of atom, just as it did when it used to till the land with its hands.

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This basic difference between the views of Marxism and Islam about the social system is — in a general — due to the explanation of the social life which the social system ensures to organise and regulate. Thus social life of man is the offspring of the productive powers, in the opinion of Marxism. Because the powers of production constitute the basic rule and the first factor in the entire history of mankind. Therefore, when the form of the productive powers changed, it was but natural that the form of the social life which is expressed by the prevailing

social system should change accordingly and a new social system should come into being, which suits the new form of production.

What we said in our previous discussion of the historical materialism and our broad criticism about its meaning from history, suffices us to make more comments in this regard. We had clearly shown that powers of production are not the basic factor in history.

But in the light of Islam's teachings, the social life with its different forms does not spring from various forms of production. But it ensures from the needs of man himself because it is the man who is the moving force for history and not the means of production and it is in him that we find the springs of the social life. Because man has been created in such a way that he loves his own self and tries to meet his needs and consequently, he exploits all the things around him to achieve that end. Naturally, he also finds himself obliged to utilise another man in this regard because he cannot satisfy his need, except through the cooperation of other individuals. This led to the social relations growing on the basis of those needs and these relations expanded with their expansion and growth during the long experience of life of man. The social life is, thus, the off-spring of the human needs, the social system being the form which organises social life in accordance with those human needs.

We can find in our study of human needs that a main part thereof remained stable with the passage of time while some points remained developing and getting new according to the circumstances and conditions. This stability which we find in man's organic constitution and his powers generally as also the apparatuses of feeding and procreation and the possibilities of realisation and feeling certainly means that the entire humanity possesses these characteristics, needs and general qualities and it is because of this that it was referred to as one single nation

in God Almighty's address to His prophets as in this Qur'ãnic verse:

إِنَّ هٰذِهِ أُمَّتُكُمْ أُمَّةً وَاحِدَةً وَأَنَا رَبُّكُمْ فَاعْبُدُونِ. (الانبياء، ٩٢)

Surely this community of yours is one community, and I am your Lord; so serve Me. (21:92)

On the other hand we find that there is a large number of needs which enter in the sphere of human needs gradually, growing through the experiments of life and increased experience about its characteristic and similar things. Thus the main needs are, then, stable while the secondary needs remain getting renewed and developing, in accordance with the growth of the experiment of life and the complications thereof.

If we know, besides, this, that social life springs from human needs and that social system means the form which organises the social life in accordance with those needs, as mentioned before, we come to the conclusion that a social system suitable for humanity should not necessarily develop and change in a general way, in order that it may move along the growth and development of social life, just as it is not reasonable that it should formulate general principle of life and details thereof, in a permanent way. But the social system must have main part stable and others open to development and change, as long as the basis of the social life (human needs) comprised stable parts as also the changing ones, so that the stable as well as the developing sides may be reflected in a suitable social system.

This exists fully in the social system of Islam as it includes a main stable side connected with the treatment of the basic stable needs in the life of man, like the need for the guarantee of livelihood, procreation and peace, besides the needs dealt with

under the rules about the distribution of wealth and those relating to marriage and divorce and the laws about punishment and others laid down in the Holy Qur'ãn and the *sunnah.*

The social system in Islam also contains aspects open to changes according to the new interests and needs. These are the aspects in which Islam has empowered the ruling authority *(waliyyu 'l-amr)* to decide in respect thereof to suit the interest and the need, in the light of the stable side of the system. It has also provided the stable side of the system with permanent legislative rules in their legal forms but they are conditioned, in their implementation, by circumstances. In that manner, the right way, to satisfy the stable needs, is determined although their means of satisfaction differ despite their stability such as the rule of eliminating the detriment in Islam and impediment in the religion.

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In this way — and unlike Marxism which believes in the relations of distribution and consequently the entire social system being dependent on the forms of production — we can affirm segregation of the relations of distribution of the form of production. Thus it is possible for one social system to present to the human society distribution relations that might be suitable to it in different circumstances of production and various forms thereof. Every kind of distribution relation does not depend on certain form of production, so that it may not precede or remain behind it, as does Marxism believe.

On this basis do Islam and Marxism differ from each other in their views about other distribution systems which were enforced in history as also in their verdict with regard to those systems. Thus Marxism studies distribution system through the production circumstances in vogue in the society and thus it

passed the judgement that it was a suitable one if it conveys the growth of the productive forces and that it was a bad one which must be revolted against if it was an obstacle in its ascending way. That is why we find Marxism blessing slavery to the greatest extent and in a most horrible form in a society which lives on man's handicraft production. Because a society like this cannot possible be propelled to increasing the productive activity except when whips were held over the heads of the overwhelming majority of its members and they were forced to work at the points of bayonets. Thus anyone who resorted to terroristic operation and held the whip over the heads of the people was the programme man and the revolutionary vanguard in such a society because he was the ruthless person capable of materialising history's will. But the other person who refrains from participating in the operation of slavery and leaves this golden opportunity, he then deserves all the attributes which the socialist today ascribe to the capitalist as he is a man who. opposes the operation of human progress.

As for Islam, it passes judgement about every system in the light of its relation with various human needs the satisfaction of which must be guaranteed by the system through conditioning the life accordingly, taking these needs to be the basis for the growth of social life. Islam does regard this form of production or that as a justification for the establishment of a social system and distribution relations which do not ensure satisfaction of those needs as it rejects that so-called inevitable relationship between the forms of production and the social systems.

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While rejecting this relationship, Islam does not assert it only theoretically but it puts forth the practical proof thereof from its historical existence. Because in its objective experiment

of life it has recorded a theoretical support and a living proof of the falsehood of the so-called relationship between the social system and the forms of production. It has further proved that humanity can condition its social existence in a new and revolutionary manner while its mode of production remains unchanged.

Because the Islamic experiment which humanity has had for a short span of its long life, during which human family has witnessed a most brilliant development — a revolutionary experiment which had created a nation and established a civilization and which had changed the course of history was not indeed the outcome of a new mode of the production or due to a change in its forms and powers. It was not possible under the logic of the socialist explanation of history — which links social system with the means of production — to bring about this universal revolution, which embraced all aspects of life, without any basic change in the conditions of production preceding it.

The Islamic reality thus challenged the historical logic of Marxism in all its calculations and in everything. Yes it challenged it in everything. Thus it challenged it in the notion of equality, because Marxism believes that the notion of equality is the out-come of industrial society which is opened by the class that bears the banner of equality that is bourgeoisie. In its opinion it is not possible to bear this banner before the historical development reaches this industrial stage. But Islam scoffs at this logic, which ascribes every consciousness and thought to the development of production. Because Islam has been able to raise the banner of equality and to create in man a right consciousness and a comprehensive awareness. It has further been able to reflect its essence in the reality of the social relations to an extent which bourgeoisic could not. It could stand all that before God Almighty let the bourgeois class appear and twenty centuries before its material conditions existed. It called for equality before at a time

when the implement had not yet been found. It declared, "All of you belong to Adam and Adam is from dust", "All persons are equals like the teeth of the comb" and "An Arab has no superiority to a non-Arab *(ʿajam)* except through piety".

Was this equality inspired in the Muslim society by means of bourgeoisie production which did not appear but after a lapse of thousand years? Or did the Muslim society get inspiration about this equality from the means of agriculture and the elementary trade for which the Ḥijãzĩ society lived which were found in a better and more developed form in other Arabian societies and other world societies? Then why did these means inspire the Ḥijãzĩ society with the notion of equality and enabled it to play a most splendid historical role for the realisation of this notion, while they did not do the like in the case of Arab societies of Yemen, al-Ḥĩrah or Syria?!

Islam also challenged the calculations of the historical materialism once again by announcing the good news about the existence of a world-wide society rallying the entire humanity in one field and it worked assilously, to realise this idea in such environment as clamoured with tribal strife and which had thousands of inter-contradictory clause. It succeeded in uplifting these units into a greater humanity and made the Muslims give up the notion of a tribal society delineated by blood, relationship and neighbourhood replacing it by the notion of a society which is not limited to any of these limits but which is limited only by Islam's ideological thought. Then what was these means of production which had brought about a change in those people, who were not intelligent enough even to them of a national society, which made them leaders of the world society and its champions in a short period?!

Islam challenged the so-called historical logic for the third time, by establishing distribution relations which, under the calculation of the socialist economy, could not possibly be

established in a society before it reaches some industrial and implement stage in production. So Islam narrowed the sphere of private ownership, limited its domain and refined its meaning. It also put limits and condition it and made it incumbent on it ensure support to the poor, beside providing sufficient guarantees to ensure balance and justice in distribution preceding thereby the material conditions — in the opinion of Marxism — for this kind of relations. Thus while the eighteenth century says "No one but the fool should be ignorant that the lower classes must remain poor otherwise they would not be hard working assiduous; The nineteenth century says: "One, who is born in a world whose ownership has been completed, has no right to the food if he could not earn means of his livelihood, by means of his work or of his family. Such a person was a parasite in the society there being no need of his existence. Because he has no room on the table of nature which asks him to go, showing no leniency in the enforcement of this dictate".[2] So while the world was saying this even until many centuries after the advent of Islam, Islam, according, to prophetic saying, in declaring the principle of social security "He who leaves a household in a state of perishing, the responsibility of his family is on me, and he who leaves a debt, the responsibility of his debt is on me".

The Islamic economy declares in an unambiguous manner that poverty and destitution did not spring from nature itself, but it was the outcome of mal-distribution and deviation from the good relationship which must bind the rich with the poor. Thus, it (Islam) says, according to a tradition; "Nothing makes a poor person starve except that with which a rich person avails for luxury".

This consciousness of Islam about the problems of the social

1. Arthur Young, the writer of the 18th century.

2. Malthus lived in the early 19th century.

justice in distribution the like of which is not to be found even in those societies which are more advanced than the Islamic one in materialistic conditions, could not have been the offsprings of plough and the elementary trade on the handicrafts and such like means of living known by all the societies.

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They say that this consciousness or this social revolution, nay this gigantic Islamic tide which extended to the history of the whole world was the result of development of trade and of the commercial conditions in Mecca which demanded establishment of a stable state support thereto with all its social and ideological requirements compatible with the prevailing commercial situation.

Indeed it is a novel explanation which explains this historical change in life of the entire humanity by commercial conditions obtaining in one of the countries of the Arabian Peninsula.

I do not know how the commercial conditions of Mecca let this strong historical role to be played to the exclusion of other world and Arab countries which experienced greater civilizations and more programme material conditions and which were superior to Mecca in respect of political and economic conditions. Was it not inevitable under the material logic of history, that the new social development should have spread in these countries? How could certain commercial circumstances in a city like Mecca create a new human history while the circumstances similar thereto or even more developed failed to do the like?

If Mecca enjoyed a commercial situation congenial to the passage of its trade between Yemen and Syria, the Nabataeans also had important commercial circumstances when they had established Petra as a station for the trade route, wherein they

set up most progressive Arabic civilisation so that their influence extended to the neighbouring countries and where they had set up garrisons of trade caravans and sites for the exploitation of mines and whose city became, for a long time, the main city for the caravans and an important trade centre, their commercial activity extending far and wide so much so that the traces of their trade were found in Seleucia and the ports of Syria and Alexandria. They used to trade in aromatic from Yemen, and silk from China, henna colour from Ascalon, glass and purple colour from Sidon and Tyre, pearls from the Persian Gulf and porcelain from Rome. They also produced in their countries gold, silver, tar and sesame oil. But despite this commercial and production level, which Mecca did not achieve, the Nabateans remained in their social relations as they were, awailing Mecca's divine role in the development of history.

And there is al-Ḥĩrah (near Kũfah) which experienced a great progress in industry and trade during the period of al-Manadhirah (Lakhmid Kingdom). They prospered in it the industries of textiles, weapons, porcelain, pottery and the people of al-Ḥĩrah were able to have their commercial influence extended to the central, Southern and Eastern Arabian Peninsula. They used to send trade caravans to the main markets carrying their country's products.

There was Tadmor (Palmyra) civilization which continued for a number of centuries under which trade prospered so much and which established trade relations with different countries of the world like China, India, Babylonia, Phoenician cities and the Mesopotamia.

There were also civilizations celebrated by the history of Yemen since ancient times.

A study of these civilizations and their commercial and economic conditions and their comparison with Mecca no respect of its civilizational entity before Islam prove that the Islamic

revolution in the social relations and the ideological life was not a question of material conditions and economics and commercial circumstances. Consequently, social relations including the distribution relations are separate from the form of production and the economic situation of the productive powers.

Is not Islam, after all this, entitled to condemn, with all certainty and confidence, that historical inevitability which links every mode of distribution with one of the modes of production and declare by dint of material tangible argument that the system was based on ideological and spiritual bases and not on the material way in earning necessities of life?!

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VI — ECONOMIC PROBLEM IN THE SIGHT OF ISLAM AND ITS SOLUTIONS

WHAT IS THE PROBLEM?

All ideological currents in the economic field, agree that there was in the economic life a problem which must be tackled. They however differ in determining the nature of this problem and as to what is the general way to tackle it.

Thus capitalism believes that the basic economic problem is comparative shortage of natural resources in view of that fact nature is limited, as it is not possible to increase the expense of the earth on which man lives nor the amounts of various natural resources lying buried therein but the needs of human life go on increasing regularly, with the progress and prosperity of civilization, which renders nature incapable of meeting all these needs in respect of all the individuals. This leads to competition among the individuals in fulfilling their needs, which results in the economic problem.

Therefore, the economic problem, in the opinion of capitalism, is this that the natural resources of wealth cannot keep pace with the civilization and guarantee a satisfaction of all the needs and desires that remain ever growing with the development

of civilization.

Marxist is of the opinion that the economic problem is always the problem of inconsistency between the form of production and the distribution relations. Therefore, when there was consistency between that form and these relations, there was stability in the economic life, irrespective of the social system resulting from the agreement between the form of production and the distribution relations.

But Islam does not agree with capitalists in believing that the problem is that of nature and paucity of natural resources as it is of the view that nature can ensure all the needs of life the failure to satisfy which leads to a real problem in the life of man.

Similarly Islam is also not of the opinion that the problem lies in the disagreement between the form of production and the relations of distribution as Marxist says. The problem, according to Islam, is but the problem of man himself, before anything else, and not the nature nor the forms of production.

And this is what Islam establishes in the following Qur'ãnic verses:

اَللَّهُ ٱلَّذي خَلَقَ ٱلسَّمٰوَاتِ وَ ٱلأَرْضَ وَ أَنزَلَ مِنَ ٱلسَّمَآءِ مَآءً فَأَخْرَجَ بِهِ مِنَ
ٱلثَّمَرَاتِ رِزْقاً لَكُمْ وَ سَخَّرَلَكُمُ الفُلْكَ لِتَجْرِيَ فِي البَحْرِ بِأَمْرِهِ وَ سَخَّرَ لَكُمُ
ٱلأَنهَارَ* وَ سَخَّرَ لَكُمُ ٱلشَّمْسَ وَ القَمَرَ دَآئِبَيْنِ وَ سَخَّرَ لَكُمُ ٱلَّيْلَ وَ ٱلنَّهَارَ * وَ
آتٰيكُمْ مِنْ كُلِّ مَا سَأَلْتُمُوهُ وَإِنْ تَعُدُّوا نِعْمَتَ ٱللَّهِ لاَ تُحْصُوهَا إِنَّ الإِنْسَانَ لَظَلُومٌ
كَفَّارٌ. (ابراهيم، ٣٢—٣٤)

It is Allãh who created the heavens and the earth, and sent down out of heaven water wherewith He brought forth fruits to be your sustenance, And He subjected to you the ships to run

upon the sea at His commandment; and He subjected to you the rivers and He subjected to you the sun and moon constant upon their courses, and He subjected to you the night and day, and gave you of all you asked Him., If you count Allãh's blessing, you will never number it; surely man is sinful, unthankful! (14:32-34)

These holy verses clearly show that God Almighty has pooled in this wide universe all the needs and beneficial things for man and has provided for him resources sufficient to meet his material needs. But it was man himself who had lost this opportunity given to him by Allãh, because of his transgression and ingratitude *(surely man is sinful, unthankful).* Thus man's unjust behaviour in his practical life and his thanklessness of the Divine bounty are the real causes of the economic problems in man's life.

Man's injustice in the economic field is constituted by mal-distribution while his thanklessness of Divine bounty lies in his neglecting the exploitation of the nature and in his negative attitude towards it.

So when injustice in the social relations of distribution is wiped out and powers of man are pooled, to take advantage from nature and exploit it, the real problem disappears from the economic field.

Islam has, indeed, guaranteed to wipe out injustice by means of the solutions it has put forth for the problems of the distribution and circulation. As for the thanklessness, it has tackled the issue through the meanings and rules it has given in respect of production. This is what we are going to explain in the following lines in so far as it relates to the first cause of the social problem in the eyes of Islam, and that is injustice in the domains of

distribution and circulation. As for Islam's attitude towards the second cause, that is, thanklessness about the Divine blessing, we shall study it in a future discussion which we have prepared to present Islam's attitude vis-à-vis production and its rules and the concepts it has given in this respect.

SYSTEM OF DISTRIBUTION

In respect of the domains of distribution, humanity has in the course of history suffered from different forms of injustice because of the distribution being based, at one time on purely individual basis and at another on purely non-personal basis. The first one thus constituted an encroachment on the rights of the community while the second one meant harming of the rights of an individual.

But Islam has laid down such a framework of distribution for the Islamic society as ensures regard for the rights of the individual as well as those of the community. It, therefore, stood in the way of an individual and his rights and the satisfaction of his natural tendencies. Similarly, it did not deprive the community of its honour nor did it threaten its life and thereby it was distinct from different distribution systems which man had experimented in the course of history.

The distribution board in Islam comprises of two main instruments, namely, the work and the need. Each of the two instruments has its effective role in the general field of the community wealth.

We shall soon take up each of the two instruments for study to know the role they play in the field of distribution, drawing comparison between the place of the work and the need in the Islamic framework of distribution of wealth and their place in other plans and ideologies about the distribution, which are based on communism, socialism and capitalism.

Role of Work in Distribution:

In order to know the role of work in the distribution, we must study the social link between the work and the wealth its produces. Thus work is applied to different natural materials it extracts. Thus minerals are extracted from the earth, wood is cut from the trees, diving is done into the sea to take out pearls and a bird caught from the air and other kinds of wealth and sub-stances are obtained from the nature by man by dint of work. The question with which we deal in this regard is as to what the material earns from the social character because of the work? And what is the relation of the worker to the wealth which he obtains through his work?

There exists a view that of disjunction of social relation between the work (and the worker) and his subject and therefore the work or the worker has no right but to fulfil his need whatever be his work because the work is but a social duty discharged by the individual for the society and the society pays him for it by guaranteeing the fulfilment of his needs.

This view agrees with the viewpoint of the communist economy. Because the communist economy regards the society as a big entity wherein individuals melt away, each of the individuals occupying the position of a cell in an organic entity. On the basis of this view which melts the individuals into a big social crucible, the works done by the individuals of the society do not appear to be works of the individuals because all the individuals had melted into the entity and thereby the worker's link is cut off from the results of his work and the society becomes the real worker and owner of the work of all the individuals whose only right therein being the satisfaction of their needs, according to the communist form which we have seen previously during our discussion of the historical materialism, i.e. "From everyone, in accordance with his power, and for everyone according to his need". Thus the individuals in a

communist society resemble, completely, parts of a mechanical apparatus as every part in the apparatus is entitled to consume as much oil as it needs while it must perform its particular job. Thereby all the machine parts consume equal shares of the oil despite their functions being different in respect of their importance and complications. Similarly each of the individuals of a society is given a share in the communist distribution system, (according to his need,) although the extent of their practical participation in the production of wealth may differ. Thus an individual does a work but he does not own the fruit of his work nor does he enjoy the result of his work exclusively. All that he is entitled to is to have his needs fulfilled, irrespective of whether it meant more than his work or less.[1]

On this basis the position of the work *vis-à-vis* distribution becomes negative. Thus in the light of the communist sense an instrument is for producing commodities and not an instrument for their distribution. It is the need alone which determines the manner in which distribution of the commodities among the individuals of the society takes place and therefore the lot of the individuals of the society in the distribution differs in accordance with their needs and not according to their works.

But as far as the Marxist socialist economy is concerned, it determines the relation of the worker with the result of his work in the light of its peculiar concept of the value. Thus it is of the opinion that it is the worker who creates this exchange value of the material on which his labour is expended and thus the material is of no value without the human labour incarnated in it. And as long as the labour was the basic source of the value, the distribution of the resultant values among different branches

1. This is so in non-Marxist communist trends. But Marxism has its own peculiar way to justify that in the light of its historical concept of the communist stage, vide pp.9-10 (of this English version).

of the wealth must be on the basis of labour. Therefore, every worker, owns the outcome of his labour as well as the material whereon his labour has been expended. For it had become of value, due to the labour; which means that: (everyone is entitled according to his labour) rather than according to his need, because every worker has the right to have the value created by him. And since labour alone creates values, therefore it is the only means of distribution. Thus while in the communist society need constitutes means of distribution, in the socialist society labour becomes the basic means of distribution.

But Islam differs from the communist and socialist societies both.

It differs from communism in so far as the latter severs relations between the labour of an individual and the results of his labour and firmly regards the society as the only owner of the labour of all the individuals while Islam does not look at the society as being a big entity hiding behind the individuals, moving them this way or that, but the society is but a great collection of individuals. Therefore, realistically the individuals are looked at as human beings, moving about and working and therefore under no circumstance can the relation between the labourer and the result of his labour be cut off.

Islam differs also from the socialist economy which says that it is the individual who by dint of his work, lends to the material its exchange value. Thus the natural materials like wood and minerals and other natural wealth do not derive their value in the opinion of Islam — from the work but the value of every material is the result of the general social desire to obtain the same as explained by us in the course of our study of the historical materialism.

The work, in the view of Islam, is but a cause of the ownership of the worker as the result of his work. And this personal ownership which is based on work constitutes an expression of a

natural tendency in man for owning the results of his work. This tendency springs from the consciousness of every individual of the domination over his work as the consciousness naturally causes the tendency to the domination over the results of the work and its gains. Thus the ownership based on work becomes man's right, emanating from his original feelings. Even those societies in which private ownership does not exist, as we are told by communism, do not suppress the right of ownership based on work as being an expression of an original tendency in man. It only means that the work in those societies had a social impression and therefore the ownership based thereon is social as well. Thus the reality is the reality and the natural tendency to the ownership on the basis of work exists in any case though the nature of the ownership may differ with the difference in the form of the work in respect of its being individual or of society.

Work, then, is the basis for the worker's ownership, according to Islam and on this basis it constitutes the main means in the Islamic distribution system. Because every worker secures by dint of the work, the natural wealth he gets hold of and he possesses the same in accordance with the rule that work is the cause of ownership.

And in this way we can derive, in the end, different doctrinal stands vis-à-vis the social relation between the individual worker and the result of his work.

Thus the communist rule in this regard is "work constitutes the cause for the ownership of the society rather of the individual".

The socialist rule is: "Work is the cause of the value of the material and consequently it constitutes a cause for the ownership of the worker thereof".

But the Islamic rule is: "Work is the cause for the workers ownership of the material and it is not a cause of its value".

Thus when a worker extracts a pearl he does not bestow its value to it with his work but he only owns it by dint of his work.

Role of Need in Distribution:

Work is the first main instrument in the distribution system, as we have seen just now, and the other instrument which largely participates in the process of distribution is the need.

And it is the common role which work and need play together in this domain that determines the first general form of distribution in the Islamic society.

To explain this common role in which need participates, we can divide the individuals of the society into three groups. Because a society generally comprises three groups; firstly one which can, with its talents and intellectual and practical powers, provide its livelihood of a luxurious and rich standard; secondly, the one which can work but which produces with its work, only as much as satisfies its needs and provides for its basic requirements, and thirdly that group which cannot work due to bodily weakness, some intellectual ailment or other such causes as paralyse man's activity and row him out of gear to work and produce.

Consequently, on the basis of the Islamic economy, the first group depends on the work in the matter of getting its share of the distribution. Thus each individual of this group gets his share from the distribution in accordance with his peculiar personal potentialities even though it might be in excess of his requirements as long as he utilised his potentialities within the limits that Islamic economy lays down for the economic activities of the individuals. Requirement, therefore, has no effect in respect of this group of people, the work being the only basis of determining its share of the distribution.

While the first group depends on work alone, the third one and its economic entity in Islam depends on the basic requirement above. Because this group is unable to work and therefore it gets as much share from the distribution as may ensure its livelihood fully, on the basis of its requirements, in accordance with the principles of the general insurance and social solidarity in the Islamic society.

As for the second group which works but it does not secure from its work except the minimum amount of the livelihood, it depends, in the matter of its income, on work and requirement together. The work ensures to it its essential livelihood while the requirement, according to the principles of insurance and social solidarity, calls for increasing the income of this group by means of ways and means determined in the Islamic economy, as described in the following discussion, so that a living of a general degree of welfare be made available to the members of this group.

In this way we can realise the forms of difference between the role of the need in the Islamic economy, being an instrument of distribution and its role in other economic doctrines.

Need According to Islam and Communism:

The need in the view of Communism which says that from everyone according to his power and for everyone according to his need — is regarded the only basic criterion in the distribution of the production among the working individuals in the society and therefore it does not let the work to create ownership wider than the need of the worker. But Islam recognises work as being the instrument of the distribution besides the need and entrusts to it a positive role in this regard and thereby it opens the way in the economic life for the appearance of all the powers and talents and the development thereof somewhat on the basis of

competition and rivalry and urges the talented individuals to expend all their potentialities in the field of civics and economy. But contrary is the case with Communism because by basing the distribution on the need of the worker alone, irrespective of the nature and activity of his work, it leads to freezing of natural incentives in man which make him work hard and be active. As a matter of fact what induces one to hard work and activity is but his own interest and therefore when work is stripped of its being an instrument of distribution and the need alone is adopted as the criterion of the share of every individuals, as does Communism, it means a death blow to the most important power that pushes the economic system ahead and moves it more upward.

Need According to Islam and Marxist Socialism:

The Socialism, which believes in the `from everyone in accordance with his power and for everyone in accordance with his work' depends on work as being the basic gear for distribution and hence every worker is entitled to the result of his work whatever be this result — small or big. In this way the role of need in the distribution is annulled and therefore the share of the worker is not confined to his need if he produces, with his work, more than his need. Similarly he does not get what might satisfy his need fully when he fails to render productive service (production) equal thereto (his need). Thus every individual gets the value of his work, whatever his need be or whatever be the value produced by the work.

This is at variance with the Islamic view-point about need as according to Islam, need plays an important positive role. Because although it was not a cause of the deprivation of a talented worker of the fruits of his work in case they exceeded his need, yet it was an active factor in the distribution in respect

of the second group of the three ones existing in a society, described earlier, that is the group which does not possess intellectual and corporeal powers except to such an extent as let it obtain the minimum amidst of necessaries of life as this group must, on the economic basis of the Marxist Socialism, must be content with the small fruits (results) of its work and approve the big differences between its living standard and the general living standard of the first group, which is capable of earning a luxurious living. Because under the shadow of Socialism work alone exercises the distribution and hence it is not possible for a worker to desire better living than that which is provided for him by his work. But under the shadow of the Islamic economy the matter differs because Islam does not suffice with the work alone in the matter of organising the system of distribution among the workers but it allocates thereon a share to the need. It regards the inability of the second group to secure the general standard of luxury as a sort of need and lays down certain ways and means to deal with this (kind of) need. Thus a talented fortunate worker would never be deprived of the fruits of his work exceeding his need, but a worker who grants only the minimum working power would get a share greater than his production.

There is another point of ideological difference between Islam and Marxist Socialism regarding the third one of the three groups of people in the society, which is deprived of work due to the nature of its intellectual and corporeal constitution. The difference existing between Islam and Marxist Socialism about this deprived group emanates from the inconsistency in their concepts about the distribution relations.

I do not propose to take up in this regard the attitude of the socialist world, today *vis-à-vis* the third group nor do I try to repeat the claims that an individual incapable of work is doomed to starvation in socialist societies, because I want to study the

question from theoretical point of view and not from application nor do I want to bear the, responsibility of those claims which the enemies of the socialist world repeat on behalf thereof.

Therefore, from the theoretical point of view it is not possible for the Marxist Socialist economy to explain the right of the third group in life and justify its getting a share from the general production in the process of distribution because in the opinion of Marxism distribution does not stand on any firm moral basis. It is only determined in accordance with the condition of the class struggle in the society dictator by the prevalent form of production and therefore Marxism believes that slavery and the death of slave under the whips and his deprivation of the fruits of his work was something bearable under circumstances of the class struggle between the lords and the slaves.

In the light of this Marxist basis it is necessary that the share of the third group in the distribution be studied in the light of its class centre, so long as the shares of the individuals in the distribution were determined in accordance with their class centres in the social battlefield.

But as the third group was deprived of the ownership of the means of production, and of the power of productive work, it does not come under one of the two struggling groups of the capitalist class, and the working class, and does not constitute a part of the working class in the role of the victory of the workers and establishment of the socialist society.

And since the individuals, who are incapable of work by their nature, were separated from the class struggle between the capitalists and the workers and consequently from the working class which controls the means of production in the socialist stage there is to be found a scientific explanation in the Marxist way which might justify the share of these in the distribution and their right in the life and the wealth which was controlled by the working class, as long as they remained outside the scope of the

class struggle. Thus Marxism cannot justify, in its peculiar way, insurance of the life of the third group and its living in the socialist stage.

But Islam does not determine the process of distribution on the basis of the class struggle in the society. It determines it in the light of the higher ideal of a happy society and on the basis of moral established values which impose distribution of the wealth in such a form as may ensure realisation of those values and existence of that ideal and diminishing the agonies of deprivation to the greatest possible extent.

A distribution process which centres round these concepts naturally accommodates the third group, as being a part of the human society in which wealth must be distributed in such a way as reduces the pains of deprivation to the greatest extent possible in order to realise the higher ideal for a happy society and the moral values on which Islam establishes social relations. It becomes natural, then, that the need of this deprived group be regarded a sufficient reason to give it its right in life and one of the instruments of the distribution.

وَٱلَّذِينَ فِي أَمْوَالِهِمْ حَقٌّ مَعْلُومٌ * لِلسَّائِلِ وَالْمَحْرُومِ. (المعارج، ٢٤–٢٥)

Those in whose wealth is a right known for the beggar and the outcast. (70:24-25)

Need According to Islam and Capitalism:

As for the capitalist economy in its obvious form, it is entirely contradictory to Islam in respect of its attitude towards need as need in the capitalist society is none of the positive instruments of distribution. It is but of a contradictory attribute and has a positive role which is contradictory to the one it plays

in an Islamic society. Thus the greater it is with the individuals the lesser becomes their share in the distribution so that decrease in the share leads ultimately to a large number of them withdrawing from work and distribution. The reason for this is that the intensity of the need and its being wide-spread mean existence of much of the working powers in the capitalist market which are in excess of the quantity needed by the owners of the works and in view of the fact that human power was a capitalist commodity whose fate was governed by the laws of supply and demand as was the case with all other commodities in the market. It was therefore but natural that the wages of work should decrease as much as the supply was greater than the demand and the decrease continues to take place in accordance with this increase and when the capitalist market refused to absorb all the supplied working manpower and a large number of the needy persons were afflicted with unemployment as a result thereof, they must do the impossible in order to survive or bear the pains of deprivation and starvation.

Thus need means nothing positive in the capitalist distribution. It only means abundance of the working powers and any commodity which is afflicted with the excess of supply over the demand must have its price reduced and its production stopped until it was consumed and the relation between the supply and demand became right.

Therefore, the need in the capitalist society means withdrawal of the individual from the field of distribution and it was not an instrument of distribution.

Private Property:

Having established that work was the cause of private ownership in accordance with the natural inclination in man to own the results of his work and having regarded work, on this

basis; a main instrument for distribution, Islam conceded the two following things:

Firstly, to let private ownership appear in the economic field. Because work being the basis of ownership, the worker should naturally be allowed private ownership of the commodities which intervene in bringing that about and making of wealth, like the green crops, textile and the like.

When we assert that the ownership by a working person of the wealth he produces is an expression of a natural tendency in him we mean, thereby, that there exists in man a natural tendency to have the ownership of the results of his work, to the exclusion of others which is a thing expressed in the social concept as ownership. But nature of the rights that result from this ownership are not established in accordance with a natural tendency. It is the social system that determines it in accordance with the ideas and interests adopted by it. For instance, is it the right of the worker, who owns the commodity by dint of the work, to squander it as long as it is his private wealth? Or is it his right to exchange it for another commodity or to trade therewith and develop his wealth by means of making it a commercial or usurious commodity? The answer to these questions and the like is given by the social system which determines the rights of private ownership and is not related to nature and instinct.

Because of this Islam intervened in determining these rights of privileges, rejecting some and recognising others in accordance with the values and ideals adopted by it. For instance, it rejected the owner's entitlement to squander his wealth or be lavish in spending it but established his right to utilise it without being squanderous or extravagant. It denied the owner the right to grow the wealth which he owned by means of usury, but allowed him to increase the same through trade within special limits and conditions and in accordance with its general theories

about the distribution which we shall soon study in the coming chapters, by Allãh's willing.

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The other thing which is deduced from the rule, the work is the cause of ownership which is the determination (limitation) of the scope of private ownership in accordance with the demands of this rule. Because the work being the main basis of private ownership, it is necessary that the scope of private ownership be confined to wealth in the bringing about or composition of which work could intervene to the exclusion of the wealth whereupon work had no the least bearing.

On this basis property is divided, according to its nature, coming into being and preparation into private and public wealth.

Thus the private wealth is that which comes into being or is conditioned in accordance with the private human labour expended thereon like agricultural commodities (crops) and textiles and the wealth in whose extraction from the earth or sea or in whose capturing from the atmosphere labour is expended in such cases human work intervenes (has a bearing) either in bringing about the very wealth as the work of the farmers in respect of the agricultural produce or it intervenes (has a bearing on) in conditioning it and preparing it in such a form as may make it possible to benefit therefrom as the one labour expended in extracting electricity from the powers lying spread in nature, or in digging water or petrol from the earth. Thus the electric powers and the water and petrol dug out were not the creation of human work but it was the work which had conditioned them and prepared them in the form which made it possible to benefit from them.

These kinds of wealth, in whose account human work

enters, constitute the scope Islam had fixed for private owner-ship that is the field in which Islam allows private ownership. Because work is the basis of ownership and as long as these kinds of wealth were mingled with human work, the worker was entitled to own them and take advantage of the ownership by way of enjoying and trading in them etc.

As for the public wealth, they comprise all that in which human hand is not involved like the earth as it is a wealth which has not been made by human hand. Although man sometimes intervenes by conditioning earth so as to make it suitable for cultivation and exploitation yet this conditioning was limited however long its duration be assumed since the age of the earth was longer than that and therefore it could not be anything more than conditioning for a limited period of the age of the earth. Mines and natural wealth lying hidden in earth resemble (earth) in that matter. Because the substance of these mines lying hidden in the earth was not indebted in its existence and conditioning, to human work which is involved in respect of the quantities extracted therefrom, to extract and separate which from the rest of the earthly materials effort was made.

These public wealths according to their nature — or their first form as say, the theologians — were not private properties of any individual because the basis of private ownership was work. Therefore, the wealths with which work was not mingled did not fall under the scope of the limited private ownership. They are naught but wealths open to all or public properties.

Land for instance, as being a wealth in which human work was not involved could not be owned as a private property and as the work expanded in reviving the land meant only temporary conditioning thereof for a limited period less than the age of the earth, it could not bring the land under the scope of private ownership. It only creates a right for the worker in the land

whereby he is allowed to benefit therefrom, not allowing other people to come in his way, it is because he had the distinction of expending his energy on the land. It would therefore be in-justice to equalise the hands that had worked and toiled with the others which had not worked on the lands nor toiled over it. It is for this reason that the worker was given an exclusive right in the land without being allowed it ownership. This right continues as long as the land was conditioned according to his work and when the land was neglected his special right ceased to exist.

It becomes clear that the rule is that the private ownership did not take place except in those kinds of wealth in the existence and conditioning of which human labour was involved rather than those properties and natural wealth wherein the labour was not involved. Because the cause of private ownership was the work (labour), and hence as long as the wealth did not fall under the scope of human work, it does not come under the purview of private ownership.

However, there are exceptions to the rule for considerations relating to the Islamic mission as we are going to point out in the following discussion.

Ownership is a Secondary Instrument of Distribution:

After work and need comes the role of ownership as being a secondary instrument of distribution.

While allowing private ownership to take place on the basis of work, Islam opposed Capitalism and Marxism simultaneously in respect of the rights it bestows on the owner and the fields in which he is permitted to exercise these rights.- Thus it did not allow him to utilise his wealth in developing his richness -un-restricted and in an absolute manner as did Capitalism which allowed all sorts of profits, nor did it close the opportunity of

making profit ultimately as did Marxism which bans individual profit and the exploitation in all its forms. Islam took a middle stand, banning some kinds of profit like the usurious and permitting some others like the commercial profit.

By banning some kinds of profit Islam expresses its basic difference with Capitalism about economic freedom which we have criticised while discussing Capitalism, as being a basis of the thinking of the capitalist doctrine.

We shall discuss, in the coming discussions, some of the unlawful kinds of profit in Islam such as the usurious profit and the view point of Islam in anulling the same.

Similarly by permitting commercial profit Islam expresses its basic difference with Marxism about the latter's concept of the value and the surplus value and its peculiar way of explaining the capitalist profits, as we have dealt with in our study of historical materialism.

With Islam's recognition of the commercial profit, ownership itself has become an instrument for developing wealth by means of trade in accordance with the legal conditions and limits and consequently, a secondary instrument of distribution limited by spiritual values and social interests which Islam adopts.

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This is the Islamic form of distribution which we derive from the foregoing in these lines:

Work is the main instrument of distribution as being the basis of ownership and thus he who works in nature's field, picks up the fruits of his labour and owns the same.

Need is the main instrument of distribution, being all expression of an established human right in an honourable life and thereby human needs were provided for in a Muslim society

and their satisfaction, guaranteed.

Ownership was a secondary instrument of distribution by way of commercial activities allowed by Islam within special conditions not inconsistent with the Islamic principles of social justice, which Islam had ensured as would be seen in the course of the explanation of the details.

CIRCULATION

Circulation (exchange) is one of the basic elements in economic life and it was of no less importance than the production and the distribution, though it was chronologically behind the two. Because the historical existence of production and distribution was always connected with the social existence of man. Thus whenever a human society exists, it must necessarily have — in order to continue its life and earn its living — some form of production and distribution. of wealth produced among its members in any manner on which it agreed. Therefore, there could be social life for man without production and distribution. As for the exchange, it was not necessary that it should be found in the life of a society since the very beginning. Because the societies, during the early stage of their formation, generally lined with a sort of primitive and close economy which means every family in the society producing all that it needs without seeking the help of other people's efforts. This kind of close economy leaves no scope for the exchange as long as every one produced such quantity as sufficed his simple needs and was content with the commodities he produced. The exchange starts its effective role in the economic field only when man's needs grow and become variegated and when the commodities needed by him in his life become numerous and every individual was unable to produce, by himself, all that he needed of these commodities with all their kinds and forms. Thereupon, the society is obliged

to distribute work among its members and every producer or the group of producers begins to specialise in the productions of a certain commodities from among the different ones, which could produce better than the other. As for his other requirements, he fulfils them by exchanging the surplus of the commodities produced by him with the commodities of his requirement which were produced by others. Thus the exchange begins in the economic life as a means of meeting the requirements of the producers instead of making every producer meet all his requirements by direct production.

In this way does the exchange grow as a facility in life and a response to the expansion of requirements (needs) and the tendency of production towards specialisation and development.

On the basis of this we come to know that the exchange in reality, works in the economic life of the society as a means between production and consumption or in other words, between the production and the consumers. Thus the producer always finds, by way of the exchange, the consumer who needs the commodity which he produces while this consumer in turn produces a commodity of another kind and finds, in the exchanging process, a consumer who buys the same.

But man's injustice according to Qur'ãnic terminology — which had deprived humanity of the blessings of life and its bounties thereof and had entered the field of the distribution at the cost of this right or that, also affected the exchange so that it promoted it and made it an instrument of exploitation and complication and not a means of satisfying needs and facilitating the life and a link between production and hoarding rather than a means between production and consumption. The unjust situation of the exchange led to tragedies of different forms of exploitations, just like those which resulted from the unjust situations of the distribution in the societies of slavery and feudalism or in the capitalist and communist societies.

In order that we may explain the view point of Islam *vis-à-vis* exchange we must know Islam's view about the basic factor which made the exchange an oppressive means of exploitation and the consequences that resulted therefrom and then study the solutions which Islam put forward for the problem and as to how it had lent to the exchange its just form and its laws which accompany (serve) its noble objectives in life.

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Before anything else we must note that the exchange has two forms:

One, exchange on the basis of barter.

And the other, exchange on the basis of cash payment.

The exchange on the basis of barter thus means exchanging one commodity with another which is the oldest form of exchange, historically. Thus every producer, in the societies adopting specialisation and division of work, used to obtain the commodities not produced by him against the surplus commodity of his specialisation. Thus one who produces one hundred (100) kilos of wheat retains half the quantity, for instance, to meet his own requirements and exchanges the remaining fifty (50) kilos of wheat for a certain amount of cotton which is produced by someone else.

But this form of exchange (barter) could not facilitate circulation in the economic life. On the contrary it became more and more difficult and complicated with the passage of time as the specialisation grew and the requirements got diversified. Because the barter system obliges the wheat producer to find the cotton required by him with a person who desired to have wheat. But in case the cotton producer was in need of fruit and not wheat when the wheat producer did not have fruit, it would be difficult for the wheat producer to secure his requirement of cotton.

In this way the difficulties are created because of the needs of the purchaser and the seller being different, generally.

In addition to this, there is the difficulty of the values of the bartered articles being different. Thus one who owned a horse could not obtain a hen, thereby because the value of the hen was less than that of the horse. Naturally, he was not prepared to have one hen against a whole horse nor was it divisible so that he could secure the hen against a part thereof.

Similarly, the operations of the exchange also used to face another problem that is difficulty of assessing the values of the articles prepared for exchange as it is necessary to measure the value of one thing by comparing it with the other things so that its value could be known in relation to all of them.

It was for these reasons that the societies which depend on exchange began to think of amending the exchange system in such a way as might deal with those problems and consequently the idea of using cash took birth, as being. a means of exchange instead of the commodity itself. On the basis of this, therefore, became in vogue the second form of exchange, that is the exchange on the basis of cash. Thus the cash became the representative of the commodity which the purchaser used to be obliged to present to the seller, in barter. Thus instead of making the wheat producer — as in our instance — present the fruit to the owner of cotton in exchange for the cotton he purchases from him, it becomes possible for him to sell his wheat for cash and then purchase with the cash his requirement of cotton and in turn the cotton owner purchases fruit he requires, with the cash he had obtained thereby.

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The representation by cash of commodity in the exchange operations have ensured solution of the problems that arose from

barter and overcome the difficulties thereon.

Thus the problems of disagreement between the requirement of the buyer and that of the seller disappeared as it was no longer necessary for the buyer to give to the seller commodity which he needed. He had only to give him cash whereby the latter could purchase that commodity (which he was in need of) afterwards from its producers.

The difficulty of disaccordance between the values of articles also was overcome as the value of every commodity came to be assessed in relation to the cash which was divisible.

Similarly it became easy to assess the values of the commodities because these values were now assessed in relation to one commodity, that is the cash, being a general means of measuring the value.

All these facilities took birth as the result of the cash becoming representative (agent) of the commodity in the fields of exchange.

This is the bright aspect of the cash being the representative (agent) of the commodity which explains how the agency performs its social function for which it was created, that is facilitation of the exchange operations.

Yet this agency did not stop at this, but with the passage of time began to play an important role in the economic life until it gave birth to difficulties and problems which were no less than those of the barter. But while these problems were natural, the new ones which arose from the cash becoming the agent are human problems, being an expression of kinds of in-justice and exploitation for which the way was paved by the agency of cash in the matters of exchanging.

In order to realise that we must note the developments which took place in the operations of exchange consequent upon the

changing of its form and its being based on cash instead of direct barter.

Thus in the case of the exchange based on barter there used to be no difference between the seller and the buyer, as both of the dealing persons were seller and buyer at one and the same time as each one of them delivered a commodity to the other and received another one in exchange therefore. The barter therefore, satisfied the need of the two dealing persons together in a direct way, so that by means of exchanging, each of them obtained the commodity be needed for consumption or production like wheat or plough. In the light of this, we come to know that the man, in the barter age, was not afforded an opportunity to transmigrate the personality of the seller without being a buyer at the same time. So no selling without buying. And the seller gave with his one hand his commodity to the buyer, as being a seller, to receive from the latter, with the other hand, a new commodity, as being a buyer. Selling and buying were combined in one deal.

As for the exchanges based on cash the matter differs greatly because the cash draws a differentiating line between the seller and the buyer. The seller is thus the owner of the commodity while the buyer is he who spends cash against that commodity. While the seller who sells wheat to obtain cotton, could sell wheat and obtain the cotton required by him, in one exchange deal on the basis of barter, now becomes obliged to enter into two deals in order to meet his demand, in one of them playing the role of a seller by selling wheat against a certain amount of cash, and in the other, plays the role of a buyer by purchasing cotton with that cash. This means disintegration of selling from buying, which were combined in the case of barter. The separation of selling from buying in the exchange deals based on cash widened the scope for delaying the buying from the selling. Thus the seller, in order to sell his wheat was no longer obliged to buy from the other his produce of cotton, but it was possible for him (now) to

sell his wheat for a certain amount of cash and keep the cash with him, putting off the purchase of the cotton to some other time.

This new opportunity afforded to the sellers of delaying the purchase from the sale changed the general character of the sales and exchanges. Thus while the selling, in the barter age, was always resorted to in order to buy a commodity which the seller needed, in the modern age a new purpose has developed of selling, so that the seller disposes off his commodity in the exchange process not to secure another commodity but he does so in order to have more of cash, which constitutes a general agent (representative) of commodities and which enables him to buy any commodity he wanted at any time. In this way, selling for the purpose of buying changed into selling for the purpose of absorbing cash. This led to the boarding of wealth and freezing it into cash because the cash — we mean particularly metal and silver coins commends an advantageous position over other commodities, because any other commodity could not be hoarded advantageously as most of them have their value decreased with the passage of time and moreover numerous expenditures are incurred on their preservation. On the other hand, the owner of such hoarded commodities cannot easily secure his needed commodity at the time of need and therefore hoarding of these commodities could not ensure obtainment of different requirements at all times.

The situation is quite contrary in the case of cash as it can be preserved and hoarded, and its accumulation does not entail any expenditure. Moreover, being an agent of commodities generally, cash ensures the hoarder to purchase any commodity at any time.

That is how the motives for' accumulation were great in those societies in which the exchange began to have as its basis cash and particularly the gold and silver coins.

As the result of this, the exchange ceased performing its

real function in the economic life as a means between production and consumption and became a means between production and hoarding. Thus the seller produces and sells and exchanges his produce with cash so that he may hoard this cash and add the same to his hoarded wealth while the buyer presents the cash to the seller to secure the commodity which he sells and then he cannot, thereafter, sell his produce in turn because the seller had hoarded the cash and withdrew it from the field of circulation.

Another result, thereof was the appearance of a great disturbance in the balance between the quantity of supply and the quantity of demand. Because between supply and demand tended towards equality in the barter age, as every producer used to produce to satisfy his needs and exchange the surplus with other commodities he needed in his life, of the kind other than what he produced. So the production always corresponded with his requirement, that is the supply. always had an equal demand and thereby market prices tend towards their natural (level) which expresses the real values of the commodities and their actual importance in life of the consumers. But when the age of cash began and cash dominated the trade, production and sale took a new direction until production and sale came to be resorted to for hoarding the cash and developing the property rather than to satisfy the need. At this stage, naturally, the balance between supply and demand is disturbed and the motives of hoarding play their grave role in deepening their inconsistency between supply and demand so much so that the hoarder sometimes creates a false demand and so he buys all the articles of the commodity from the market not because he needs it but only to raise its price or supplies the commodity at a price lower than what it costs with a view to obliging other producers and sellers to withdraw from competition and declare bankruptcy. In this way, prices adopt unnatural situation and the market comes under

the domination of hoarding and thousands of small sellers and producers throw themselves, all the time, before the big hoarders who dominate the market.

Then, what thereafter? Nothing, after that, except we see those strong in the economic field taking advantage from these opportunities afforded to them by the cash, so that they tend to hoarding with all their powers and selling for the purpose of hoarding. Thus they go on producing and selling in order to draw the cash in circulation in the society to their treasures and to suck it up gradually and stop the function of the exchange as a mean between production and consumption and make a large number of people fall into the ditches of misery and poverty as the result of which consumption stops in view of the lowering of the economic standard of the masses and their lack of purchasing power. Similarly the production movement also comes to a standstill because lack of purchasing power on the part of consumers and lowering thereof deprives production of its profits and whence economic depression prevails in the all branches of economic life.

* * * * *

The problems of the cash do not end here, but the cash has led to a problem which may be more dangerous than the problems we have just noted. Thus the cash has not only become an instrument of hoarding but it has also become a means of increasing wealth through the interest which the creditors demand from their debtors or which the owners of wealth demand from the capitalist banks in which they deposit their money. In this way, hoarding in the capitalist environment has become a cause of the growth of wealth instead of production whereby large amount of capital have withdrawn from the production field and gone to the hoarding boxes in the banks so that a trader,

now, does not come forward to undertake a project of production or trade except when he was satisfied that the return which the project brought generally was greater than the interest which he could secure by lending his money or depositing it in the banks.

The money obtained on the basis of usurious profit began to sneak to the money changers ever since the capitalist age as they began to attract amounts of cash lying treasured with different individuals by way of alluring them with the annual interest which the bank customers demand on their money deposited therein. As the result of this, these different amounts of money got accumulated in the treasures of the money-changers instead of being utilised in fruitful production and because of this accumulation big banks and money-houses came to be established which controlled the reins of the wealth in the country and dealt a death blow to all phenomena of balance in the economic life.

* * * * *

This is a rapid review of the problems of circulation or the exchange, which shows clearly that all these problems sprang from the cash and its misuse in the field of circulation because it was adopted as a means of hoarding and consequently as an instrument of increasing the property.

This throws a light on the *ḥadīth* (tradition) of the Messenger of Allãh.

He said:

الدّنانيرُ الصُّفرُ والدّراهمُ البيضُ مُهلكاكُم كما أهلكا مَن كانَ قبلكُم.

> Yellow dinars and white dirhams (gold and silver coins) are going to destroy you as they had done in the case of those who were before you.

Anyhow, Islam has dealt with these problems springing from the cash and it has succeeded in restoring to the circulation its natural position and the mediatory role between production and consumption.

The main points of the attitude of Islam *vis-à-vis* the problems of circulation are summed up as under:

Firstly, Islam has prohibited hoarding of the cash which has been done by means of the imposition of *zakãt* (religious tax on wealth) on the accumulated money, in a recurring manner so that the *zakãt* eats up almost all the treasured money if it remained hoarded for a number of years and that is why the holy Qur'ãn regards hoarding of gold and silver as a crime which is punishable with the fire (of hell). Because the hoarding naturally means being remiss in the payment of the religiously compulsory tax as this tax, when duly paid, does not let the cash be accumulated and hoarded. No wonder than that the holy Qur'ãn has warned those who hoard gold and silver and threatened them with punishment with the hell-fire. The holy Qur'ãn says:

يَآءَيُّهَا ٱلَّذِينَ ءَامَنُوٓا إِنَّ كَثِيرًا مِنَ ٱلأَحْبَارِ وَٱلرُّهْبَانِ لَيَأْكُلُونَ أَمْوَالَ ٱلنَّاسِ
بِٱلْبَاطِلِ وَيَصُدُّونَ عَنْ سَبِيلِ ٱللَّهِ وَٱلَّذِينَ يَكْنِزُونَ ٱلذَّهَبَ وَٱلْفِضَّةَ وَلاَ يُنْفِقُونَهَا
فِي سَبِيلِ ٱللَّهِ فَبَشِّرْهُمْ بِعَذَابٍ أَلِيمٍ * يَوْمَ يُحْمَىٰ عَلَيْهَا فِي نَارِ جَهَنَّمَ فَتُكْوَىٰ
بِهَا جِبَاهُهُمْ وَجُنُوبُهُمْ وَظُهُورُهُمْ هَٰذَا مَا كَنَزْتُمْ لِأَنْفُسِكُمْ فَذُوقُوا مَا كُنْتُمْ
تَكْنِزُونَ. (التوبة، ٣٤–٣٥)

Those who treasure up gold and silver, and do not expend them in the way of Allãh — give them the good tidings of a painful chastisement, the day they shall be heated in the fire of Gehenna and therewith their foreheads and their sides and their backs shall be branded: "This is the thing you have treasured up for yourselves; therefore taste you now what you were treasuring!" (9:34-35)

In this way had Islam ensured the wealth to remain in the fields of production, exchange and consumption and had stood in the way of its slipping into the accumulating and hoarding boxes.

Secondly, Islam made usury absolutely illegal with no relaxation and thereby dealt a death blow to the -interest and its grave results in the field of distribution and to the disturbance it caused in the general economic balance. Similarly it had there-by stripped the cash of its role as an independent instrument of promoting the property and restored to it its natural role of being a general agent of commodities and means of assessing their value and of facilitating their circulation.

Many people, who have had experienced the capitalist life and were accustomed, to its different forms, think that banning of interest meant stoppage of banks, suspension of the apparatus of economic life and paralysing of all of its nerves and veins provided by these banks. But this belief on their part is due to their ignorance about the real role which the banks play in the economic life as also about the real Islamic economic system which ensures solution of all the problems arising from the banning of interest and this we shall discuss in detail in a coming discussion.

And thirdly, it (Islam) gave the *waliyyu 'l-amr* such powers as entitle him to completely supervise the process of exchange and control the market in order to check any action that might harm and shake the economic life, or which might pave the way for any

illegal individual rule in the market and the fields of exchange.

We shall explain these points and discuss them in a detailed way in the coming chapters of the book in which we shall present the details of the Islamic economy.

* * * * *

IQTIṢĀDUNĀ

Our Economics

المؤسسة العالمية للخدمات الاسلامية

WORLD ORGANIZATION FOR ISLAMIC SERVICES

مؤسسه جهانی خدمات اسلامی

IQTIṢĀDUNĀ

OUR ECONOMICS

DISCOVERY ATTEMPT ON
ECONOMIC DOCTRINE IN
ISLAM

Muḥammad Bāqir aṣ-Ṣadr

Volume Two — Part One

WOFIS

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In the Name of Allāh,
The All-compassionate, The All-merciful

Praise belongs to Allāh, the Lord of all being;
the All-compassionate, the All-merciful;
the Master of the Day of Judgement;
Thee only we serve, and to Thee alone we pray
for succour;
Guide us in the straight path;
the path of those whom Thou host blessed,
not of those against whom Thou art wrathful,
nor of those who are astray.

* * * * *

O' Allāh! send your blessings to the head of
your messengers and the last of
your prophets,
Muḥammad and his pure and cleansed progeny.
Also send your blessings to all your
prophets and envoys.

بِسْمِ اللهِ الرَّحْمٰنِ الرَّحِيمِ
اَلْحَمْدُ لِلّٰهِ رَبِّ الْعَالَمِينَ ۝ الرَّحْمٰنِ الرَّحِيمِ
مَالِكِ يَوْمِ الدِّينِ ۝ إِيَّاكَ نَعْبُدُ وَإِيَّاكَ نَسْتَعِينُ
اِهْدِنَا الصِّرَاطَ الْمُسْتَقِيمَ ۝ صِرَاطَ الَّذِينَ
أَنْعَمْتَ عَلَيْهِمْ ۝ غَيْرِ الْمَغْضُوبِ عَلَيْهِمْ
وَلَا الضَّالِّينَ

اَللّٰهُمَّ صَلِّ عَلَى
سَيِّدِ رُسُلِكَ وَخَاتَمِ أَنْبِيَائِكَ
مُحَمَّدٍ وَآلِهِ الطَّيِّبِينَ الطَّاهِرِينَ
وَصَلِّ عَلَى جَمِيعِ الْأَنْبِيَاءِ وَالْمُرْسَلِينَ

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TRANSLITERATION

ARABIC LETTERS

Symbol	Transliteration	Symbol	Transliteration
ء	**’**	ك	**k**
ب	**b**	ل	**l**
ت	**t**	م	**m**
ث	**th**	ن	**n**
ج	**j**	ه	**h**
ح	**ḥ**	و	**w**
خ	**kh**	ي	**y**
د	**d**	ة	**ah, at** (construct state)
ذ	**dh**		
ر	**r**	ال	article **al-** and **’l** (even before the antepalatals)
ز	**z**		
س	**s**		
ش	**sh**	**<u>Long Vowels</u>**	
ص	**ṣ**	آ	**ã**
ض	**ḍ**	و	**ũ**
ط	**ṭ**	ي	**ī**
ظ	**ẓ**		
ع	**‘**	**<u>Short Vowels</u>**	
غ	**gh**	ـَ	**a**
ف	**f**	ـُ	**u**
ق	**q**	ـِ	**i**

تـصـديـر

١- العلامة الكبير الحجّة ، والفقيه المجدّد ، والمفكّر الاسلامي العبقريّ السيّد محمّد باقر الصّدر (١٣٥٣ / ١٩٣٥ - ١٤٠٠ / ١٩٨٠) تغمدّه الله برحمته ، بآثاره الّتي خلّفها للمسلمين عامّتهم ومفكّريهم ، وبحياته الحافلة بجهوده وجهاده الّتي قصّرتها الأيدي الأثيمة - بكلّ أسف - لأشهر وأعرف ، وأوسع جانبا ، وأعمق دراسة ، من أن نؤرّخه في كلمة قصيرة مقتضبة نقدم بها التّرجمة الانجليزية لأثره الشّهير (اقتصادنا) .

٢- سبق و أنّ عرّفنا قرّاءنا الكرام بأهمّ آثار السّيّد الصّدر في فاتحة التّرجمة الانجليزيّة لكتاب (المرسل. الرّسول. الرّسالة) واليوم اذ ننشر - بعون الله و تسديده - التّرجمة الانجليزيّة (لاقتصادنا) نجد أنفسنا مضطرّين الى أن نلفت انتباه قرائنا الكرام الى ما جاء في مقدّمة (اقتصادنا) نفسه ، حيث عرض السّيّد الصّدر في نهايتها نقاطا ستّاً رأى من الضّروريّ أن تلحظ ، وأن تلحظ بعناية تامّة.

ولا نزيد على ما قاله المؤلف نفسه رضي الله عنه ، شيئا سوى أنّ هذه النّقاط الست الّتي وضعها المؤلّف أمام عينه حينما ألّف الكتاب والّتي أكّد على قرّائه أن يضعوها أمام أعينهم حينما يقرأون الكتاب ويدرسون بحوثه كانت نفس هذه النّقاط

ماثلة أمام أعيننا حينما أقدمنا على نشر التّرجمة الانجليزية للكتاب، و نؤكّد على الاهتمام والعناية بها بمثل ما أكّد به المؤلّف، رحمه‌الله.

٣- انّ التّرجمة الانجليزيّة لكتاب (اقتصادنا) قامت بها مؤسّسة (پير محمّد- ابراهيم) الباكستانيّة، باقتراح منّا،. و بعد أن تمتّ التّرجمة أحالتها الينا، ولم يكن عندنا، بادئ الأمر من بواعث الثقة والاطمئنان الى صحّة التّرجمة و سلامة النّقل ما يدعونا الى أن نسارع الى نشرها، فبقيت نسخة التّرجمة عندنا الى أن عثرنا على من عهدنا اليه مراجعتها و تلافي ما يراه من نقص فيها، و بعد ذلك عثرنا على نقائص، ولم يكن ذلك عن طريق المراجعة المستوعبة، وكان من حسن الحظّ أن وجدنا من يفقه اللّغتين العربيّة والانجليزيّة، و له اختصاص بالدّراسات الاقتصادية فقرأ التّرجمة الانجليزيّة و قارنها بالنّصّ العربيّ، وتلافي ما أمكنه تلافيه من نقائص و أخطاء كلّ ذلك حسب اجتهاده ورأيه.

وهنا وجدنا أنفسنا قد وصلنا إلى مرحلة كانت نهاية الشوط لما نملكه من امكانيات و ما نقدر عليه من جهد وسعي، و بذلك يصح منا أن نسعى، بعون الله، إلى نشر التّرجمة ولا يصحّ أن يوصف عملنا بأنّه مجازفة كان التريّث خيرا منه. و مع كلّ هذا فإنّنا نفتح صدورنا لأيّ نقد و ملاحظة يردنا، و نرّحب بأيّ اقتراح يعود الى تحسين عملنا، و نأمل أن نتلافى ما نجده من نواقص و أخطاء فيما نستقبله، بتوفيق الله سبحانه.

و نرجوالله سبحانه أن يجعل في التّرجمة الانجليزيّة لهذا الكتاب كلّ خير و بركة، و أن يعمّ به النّفع، كما صنع بأصله العربيّ و أن يجعل عملنا خالصا لوجهه الكريم، انّه نعم المولى و نعم النّصير.

١٤٠١/١١/٢٧ — **المؤسّسة العالميّة للخدمات الاسلاميّة**

١٩٨١/٩/٢٦ — **(لجنّة التّأليف والتّرجمة والنّشر)**

طهران — ايران

PUBLISHER'S FOREWORD

1. The great Islamic scholar, regenerating jurist and thinker of genius, al-'Allāmah as-Sayyid Muḥammad Bāqir aṣ-Ṣadr (1353/ 1935 — 1400/1980) may Allāh encompass him with His Mercy, because of the works which he bequeathed to the Muslims, both the ordinary and the educated among them, and because of his life, which was filled with effort and striving, and which was cut short at the hands of criminals, he is too famous and well-known for us to give his biography in this brief preface which we are giving to the English translation of his celebrated book, *Iqtiṣādunā,* the Islamic System of Economics.

2. In the preface to the English translation of *The Revealer, The Messenger, The Message* we have introduced the works of as-Sayyid aṣ-Ṣadr to our respected readers. And now that we are publishing the English translation of *Iqtiṣādunā* we find ourselves compelled to turn the attention of our readers to the preface of *Iqtiṣādunā* itself, where as-Sayyid aṣ-Ṣadr has mentioned six points which he deemed necessary for the readers to observe, and that also carefully.

We do not wish to say anything more than what the author has mentioned himself, except that these six points, which he introduced while writing the book and emphasized to his readers to keep in their mind while reading the book and studying its discussions, the same six points were in our mind also when we decided to publish its English translation. And we emphasize, alongwith the author, the careful observation of these points.

3. The English translation of *Iqtiṣādunā* was prepared by the Peermahomed Ebrahim Trust of Pakistan at our instigation. After completing the translation it was submitted to us, but at that time we did not have the means to be sure and satisfied about its authenticity. So it remained with us until we found the person who could check and make up the defects

in the translation. Then again just by the way we were confronted with some defects, and fortunately we found a person who was familiar with both the Arabic and English languages with qualifications in economical studies. He compared the translation with Arabic version and corrected, according to his own views, as much as he could.

At this point we reached the utmost stage of our abilities and facilities for correction of the translation, and so we deemed it right to publish it, by the help of Allāh; and thus it cannot be said that our efforts were reckless and it would have been better to delay the publication. After all these efforts we shall gladly accept any criticism or observation, and welcome any suggestion to improve our work. We hope to correct the defects and mistakes with which we may be confronted in future.

We ask Allāh, the Glorified, to bless the English translation of this book and to generalize its benefit as He did for the original Arabic version. And may He accept our work sincerely for His Holy Self. He is the best Master and the best Helper.

WORLD RGANIZATION FOR ISLAMIC SERVICES
(*Board of Writing, Translation and Publication*)

27/11/1401
26/9/1981
Tehran — Iran.

INTRODUCTION TO THE SECOND VOLUME

This book is the third in the series which we have begun with the book *Falsafatunā* (Our Philosophy) and forms the second part of the book *Iqtiṣādunā* (Our Economy). It comprises of an attempt to discover Islamic Economic Doctrine in the light of the enactments of the laws of Islam and their implications, connected with the economic fields.

For this reason the attempt will explain two processes one of which is established on the other.

First**:** The process of collecting of a number of the enactments of the sacred laws and their implication which can throw light on the process of discovering of the doctrine.

Second**:** The process of giving a unified theoretical interpretation of these enactments and their implications in order to bring out their doctrinal contents of Islamic economics.

While the present book bears the burden of the second process, the first process is chosen to play its function in the selection of those laws and legal enactments, which may help in the success of the second process, but without laying down the condition that the laws chosen thereby be such as are adopted personally from juristic point of view. So the precepts which this book presents are not all of them such as I juristically adopt, rather there

are precepts which I do not adopt in despite of their share in the important discussions and the great attention they have received in the addendum of this book.

It is, therefore incumbent upon me to make this point quite clear and to mention the sources from which I have drawn precepts concerning lands, mining, water and such like things, lest when I make mention of or lay emphasis on any of the laws given in the book, it may be taken to mean that I hold them and/or I adopt them juristically. I leave off giving details in respect of this point as also the reasons which made me taking that position in the book concerning the first process, in the first chapter of this book.

In this connection mention may be made of the three following sources as the basis of all the laws and legal enactments presented in this book.

i) The juristic opinions of our pious scholars. The great portion of the laws whereby light is sought by this book in the process of discovery are mostly drawn from this source inasmuch as almost everyone of these laws does not miss one or more jurist who adopt and give formal legal opinion concerning them.

ii) The juristic opinions which the writer adopt and in whose validity the writer believes.

iii) Juristic view points, admissible on the technical side in the field of investigations though we may not adopt the conclusions arising therefrom juristically for reasons which sometimes prevent the investigator from adopting the conclusion arising from his investigation or from the probability of the existence of intellectual evidences.

There are technical terms which I have employed in this book. I have defined these terms on page 59 (vol. i, pt. 1) which must be observed and in the light of them, the discussions in respect of private-property 'state property', 'public property' and public permissibility may be understood.

The book is confined as you will see, in conformity with its plan and method to the exposition of the laws which are connected with process of the discovery of the economic doctrine and which enter into the building up of its superstructure.

It is for this reason that a number of the laws of property, their transcription and their development have not been expounded in the book as not required for the process of the discovery. On account of this it becomes

incumbent upon us to expound them by studying and explaining, with God's permitting, at the future occasion.

Likewise a number of the juridic opinions and points of views, which we present in the discussions of the book, are not expounded in the book itself in accordance with the scientific style of discussion — although there being the need of it — which is our desire for the easy grasp of the discussions, and the un-informity of their style and manner. For this reason, we have chosen to study these opinions juridically, in scientific form in the addendum we have appended to the book. Therein we have employed the styles and method of interpretation special to the juristic research; this full comprehension of which in all its bearings is not possible for anyone except the specialists in the science of jurisprudence.

In the end, I hope this modest attempt which has been made in the book will set a going numerous investigations on a. wider scale and lead to achievement of greater success in the discovery of the economic doctrine of Islam and to the seeking of inspiration from the sacred laws of Islam, their great secrets in all the fields of life.

Muḥammad Bāqir aṣ- Ṣadr

an-Najaf al-Ashraf

IRAQ

Volume Two

Part One

CHAPTER ONE

OPERATIONAL DISCOVERY OF ECONOMIC DOCTRINE

ECONOMIC DOCTRINE AND ISLAM

It would be better before everything else, as long as we attempt the study of a definite economic doctrine, to agree at the very beginning about what exact sense we mean by the term, ‘doctrine’ in order to clarify, at the outset of our approach, the guide posts to the goal and the nature of the contents, which any discussion of the economic doctrine should make explicit and delimit. **So then what does the term doctrine mean? What is the differentia between the doctrine of economic and the science of economics? Which are the fields that are treated doctrinally?**

It is on the basis of the answer to these questions which determine the guide-posts to the economic doctrine in a general way, that we shall fix the nature of the inquiry which we shall pursue in respect of the Islamic economic doctrine.

In this connection, we may recall to mind what we have said about the sense of the terms, ‘doctrine’ and ‘science’ in a former discussion.[1] Therein it was given that ‘‘The economic doctrine is an expression of the

[1] See vol. 1, pt. 1, of *Iqtiṣādunā.* Foreword by the author pp. 4 - 5.

way which the society prefers to follow in its economic life and in the solution of its practical problems; and the science of economics, is the science which gives the explanation of the economic life, its economic events and its economic phenomena and the linking of those events and phenomena with the general causes and factors which rule therein.

This measure of distinction even though it indicates an essential differentia, between them, is not yet sufficient when we try to discover the doctrine itself definitely or to form a determinate idea about it. However we have made use of this basic distinction to make it easy for the reader to become acquainted with the nature of the Islamic economics which we are studying and to enable him to perceive in the light of this distinction, that the Islamic economic is a doctrine and not a science, for it is the way which Islam prefers to follow in the pursuit of its economic life, and not an interpretation with which Islam expounds the events of economic life and the laws which govern them.

For the realization of this purpose and for the emphasis on the doctrinal stamp (nature) of the Islamic economics it is sufficient for us to say in respect of the doctrine, that it is a system, and in respect of the science that it is an interpretation in order to know that Islamic economic is a doctrine and not a science.

Well, but now it becomes necessary to know that the economic doctrine is much more than this in order to enable us to mark out, in the light of our sense of the term, the fields in which it operates and then to search for everything Islam is connected with it.

Then, in which field the economic doctrine operates? How far its range extends? What is the general characteristic we find in every doctrinal economic idea, so as to make that characteristic a hall-mark of those doctrinal thoughts in Islam, which we may try to combine and draw up in one single bunch?

All these questions demand that we give a definite concept to the doctrine, as distinct from science, which is capable of giving answer to all these questions. And in this connection, it will not be sufficient to say that the doctrine is simply a way.

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There are those who consider the scope of the doctrine being restricted to

the distribution of only wealth, and has nothing to do with production for the scientific laws rule over the process of production, for instance, the process of the production of wheat or textile and of the level of human acquaintance with the elements of production, their characteristics and their forces; and the process of the production of wheat or textile does not become different with the difference in the nature of the economic doctrines.

Hence the economic science is a science of the laws of production, and the economic doctrine is the art of the distribution of wealth. As such every investigation which has to do with production, and its improvement, invention of the means of production and their improvement, is a subject matter of the science of economics. It is of universal nature, by which nations do not differ in respect of it on account of difference between them as to their social principles and concepts, nor is it the appropriation of one principle with exclusion to another. And every investigation which explains about wealth, its ownership or its disposal, is a subject matter of doctrinal investigation, it constitutes a part of the economic system and not of the science of economic, nor is connected with it, but it linked with one of the outlooks of life which different doctrines have adopted such as capitalist, communist or Islam.

However, a great error is involved in making this division between the science and the doctrine — the science of economics and the economic doctrine — on the basis that the sphere which each one of them pursues is different from the sphere of the other, for it leads to the regarding of the doctrinal characteristic and scientific characteristic, as two results of the specific studied sphere, so that if the inquiry is about production then it is a scientific inquiry and if it is about distribution then it is a doctrinal inquiry, while the fact is that the science and doctrine differ from each other as to the method and the goal of the inquiry, not as to their subject matter and the sphere. The doctrinal inquiry remains doctrinal and preserves its doctrinal stamp so long as it keeps to its particular method and aim even when it takes up production itself, likewise the science does not lose its (deals with) scientific nature, when it talks about distribution, and studies it with the method and the goal which are appropriate to the science.

It is on account of this that we find that the idea of central planning of production which facilitates the state to exercise the right of the authority of administrating and supervising production is one of the most important

doctrinal theories which are regarded as constituent factors by some of the socialist doctrines or systems, or doctrines and systems with a leaning toward socialism not withstanding the fact that we know the planning of production and the permission of it to the higher body, like the state for the exercise of this planning of production does not mean that body's ownership of the means of production nor is it connected with the problem of the distribution of the means of production among the individuals.

The idea of centralization of production, then, is a doctrinal thought, connected with the economic doctrine, and not a subject matter of a scientific inquiry rather, although it deals with production and not with distribution.

On the contrary, we may find many thoughts which deal with cases of distribution are included in the science of economics, in spite of their connection with distribution. For instance, when Ricardo, declares that the share of the labourer from the produced wealth which represents in respect of which they earn as wages, does not increase under any circumstance in amount from what is sufficient for the sustenance of living . . . , he was not meaning by it to affirm anything doctrinal, nor was he laying it down as rule for the. state to prescribe a system for the payment of wages, like the system of private property and economic freedom, but was only trying to explain the reality in which the labourers live and the inevitable result of this reality not withstanding the state's non-adoption of the imposing of a maximum limit of wages and its belief in the economic freedom in its capacity as a capitalist state.

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Doctrine and Science both enter into everyone of these spheres and study the (problems of) production and distributional together. However, this should not lead us to make no distinction between them or make confusion between the scientific and doctrinal nature in the economic research, a thing favoured by those who were convinced of the non-existence of the economic system in Islam when it was not possible for them to discriminate positively between science and doctrine. They thought that a statement about the existence of the economic system in Islam would be exposed to the charge of claiming that Islam was ahead of western thinkers in the scientific creation of the political economy. They also thought that a statement as to the existence of the Islamic economy will mean that we shall find within Islam an economic thought

and scientific discussion in respect of the laws of economic life such as, production and distribution, like those we find in the discussions of Adam Smith and Ricardo, and many such other leading political economists. And since we do not find in Islam such kind of that discussions, then the Islamic economy is nothing but a myth and a mere figment of the imagination.

However these people would give up this conviction of theirs as to the non-existence of the Islamic economics, if they would clearly grasp the difference between the economic doctrine and economic science, or political economy, as it is named, and would know that Islamic economy is a doctrine and not a science.

The economic doctrine consists of every basic rule of economic life connected with the ideology of (social justice). And the science (of economics), consists of every theory which explains the reality of economic life apart from a prefixed ideology or an ideal of justice.

So then it is the ideology of justice which is the dividing line between ideology and science, and the hall-mark demarcation by which doctrinal ideas are distinguished from the scientific theories, because the ideology of justice itself is neither a scientific nor a tangible thing, capable of being measured and observed or of being subjected to experimental test by scientific means. Justice is only a moral esteemation and a moral valuation. So when you want to know the scope of justice in respect of the system of private property or to pass judgement in respect of the institution of interest on which banking is based as to whether it is just or unjust you do not take recourse to those very scientific ways and measurements which you make use of when you want to take measurement of (the degree of) the atmospheric heat or to inquire about the boiling point of a definite liquid, for the heat and vaporization are physical phenomena capable of being subjected to scientific perception but as for the estimation of justice you resort to ethical values and higher ideals which are outside of the bounds of material measurement.

Therefore, justice by itself is not a scientific idea; so, when it combines with an idea, it imprints it with doctrinal stamp and makes it distinct from scientific thinking. Hence the principle of private property economic freedom, abolishment of the interest or nationalisation of the means of production, all these are included in the doctrine because they are connected with the idea of the justice. As for the law of the diminishing return and the law of demand and supply or the iron law of wages, all these

are the scientific laws, for they have nothing to do with these evaluation of those economic phenomena. The law of the diminishing return cannot decree that this diminishing return is just or unjust. It only reveals it as permanent objective fact. Likewise the law of supply and demand cannot justify the rise in price due to shortage of supply or increase of demand on the basis of a definite conception of justice. It only shows the reciprocal objective relation between the price and the quantity of supply and demand in the sense of its being a certain inevitable manifestation of capitalist market. The same is the matter in respect of the iron law of wages. It expounds in respect of the positive reality which makes the labourers receiving always nothing more than the bare sustenance wages irrespective as to whether the meagerness of the labourers' share in the distribution coincides with justice or not. The fact then is that all scientific laws do not rest on the ideology of justice; they rest only on the deduction from the reality and observation of various kinds of its numerous manifestations. Contrary to this is the case with the doctrinal laws, which are always embodied in a definite ideology of justice.

Yet this clear cut division between doctrinal inquiry and scientific inquiry does not prevent (preclude) the doctrine from assuming the scientific frame of inquiry at sometimes. Just as in the case of the laws of supply and demand or that of the iron law of wages, such cases of these laws do scientifically confirm and are applied to the reality which they are explaining — in capitalist society in accordance with the doctrinal capitalism — for these are scientific laws within a definite doctrinal framework and not scientific nor are they valid in the other framework as we elaborately explained in earlier discussion in this book.[1]

By our mere putting up of this clear cut line of demarcation between the economic doctrine and the science of economics, we come to know that our saying there exists economic doctrine in Islam, does not mean that Islam investigates for the law of supply and demand or determines the extent of the effect of the increase or demotion of the supplies or demands on the free market. Instead Islam inquires about the providing of freedom to the market and calls for it and for the safeguarding and preserving of it, or of supervising the market and putting restriction on (curtailing) its freedom in conformity with the concept of justice adopted by it.

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[1] *...The Scientific Laws of the Capitalist Economics are of Doctrinal Framework, pp.* 237/244

Similarly Islam does not investigate (the question of) the relation between the to-and-from action between profit and interest or between the movement of the usurious capital and commerce, nor about the factors which lead to the increase of profit or the demotion of it but it rectifies profit and interest itself and passes its judgment in respect of usurious or commercial investment as conform with its conceptions of justice. Equally, Islam does not investigate about the phenomenon of diminishing return of production or their causes, but it inquires whether legal and justice to keep the production under the supervision of a higher central body.

From 11 of these, we learn that it is the fictional duty of the doctrine of economies to solve the problems of economic life linked with its. conceptions of the ideology and its ideal of justice. And when we add to this the fact that the two expressions, *ḥalāl* (the lawful) and *ḥarām* (the unlawful) in Islam are embodied in the values and the ideal in which Islam believes. Then it is but natural that it may lead us to the conviction as to the existence of the Islamic doctrinal economics; for the matter of *ḥalāl* and *ḥarām* in Islam extends to all of the human activities and all kinds of behaviour: the behaviour of the ruler and the ruled (subject), the behaviour of the buyer and seller, the behaviour of the employer and the employee, the behaviour of the worker and the jobless, for every unit of these behaviour is either, *ḥalāl* or *ḥarām* (lawful or unlawful) and consequently either just or unjust. Because when Islam contains a text prohibiting affirmatively or negatively on a specific action then that act is *ḥarām, if* otherwise then it is *ḥalāl.*

Now if every kind of activity in economic life is subject to being a matter of the *ḥalāl* or *ḥarām* as this matter is interpreted in term of values and ideal, the right of inquiry in respect of Islam calls upon us to the thought as to the selection and determination of the economic doctrine, which the matter of *ḥalāl* and *ḥarām* expresses in terms of their values, ideals and conceptions.

Relation Between the (Economic) Doctrine and the (Civil) Law:

Just as we have learnt that the economic doctrine is different from the science of economic, so also we should know the difference between the economic doctrine and the civil law. The economic doctrine is a collection of the basic theories which treat of the problems of economic life, and the civil law is the legislative enactments which regulate the

details of pecuniary monetary relations between individuals and their personal and substantive (real aim) rights. On this basis the economic doctrine (system) of a society cannot be the same as the civil law of that state, for the capitalism qua the economic doctrine (system) of the many states of the world is not the very (system of the) civil laws of those states. It is on account of this that two states, in consequence of their different trends, Germanic or Roman, for instance, differ from each other as to their respective civil laws, in despite of the oneness of their economic doctrine (system) those civil laws do not form a part of the capitalist doctrine (system). The civil laws of the capitalist state by which contracts of barter (nongayezud) (hire) or lending are regulated for instance, do not form a part of the capitalism in the sense of its being an economic doctrine (system), these civil laws were offered in the sense of their being the capitalist significance of the economic doctrine that would involve confusion. and ambiguity between the basic theories and the legal details, between the doctrine and the law, that is to say, between the basic theories of capitalism in respect of the freedom of ownership, freedom of disposal as well as freedom of investment, and the laws on which rest these capitalist principles of freedom.

It would be, therefore, a mistake for the investigator of Islamic economy to offer a collection of Islamic ordinances (rules of laws) which are on the plane of the civil law according to the understanding of the time, and present them in conformity with their legal and juridical texts (misusing mass) as the Islamic doctrine (system) of economy as some of the Muslim writers do when they attempt a study the economic doctrine (system) in Islam and they speak of a collection of the laws of Islam by which it regulates the property rights (*ḥuqūqu'l-māliyyah*) and business transactions (*mu'āmalāt*) like the Islamic law in respect of sale, lease (hire) partnership, adulteration, gambling, deceit and so on. Indeed these people are like one who wants to study and determine the economic doctrine (system) of the society in England for instance; but instead of trying to show the capitalism, (its fundamental principles in respect of the ownership of property disposal and investment [frustification] of it and the concepts and values these fundamental principles represent) contents himself with the study of the civil law of that country and whatsoever, of the rules and regulations which are connected with it.

But while we lay emphasis on the need of making separation between the theoretical nature of the economic doctrine (system) and the civil law we do not thereby cut-off the relation holding between them, on the

contrary we, at the same time, lay emphasis on the strong tie of relationship which firmly binds the economic doctrine (system) and the civil law together, in the sense of their being the component parts of one compact organic compound whole.

(As a matter of fact) the economic doctrine (system) with its theories and fundamental rules form the foundation of the upper structure namely the law (civil). However, the fact of the economic doctrine's (system's) being a theoretical foundation of law does not deprive it of its being a doctrine (system) when it, in its turn, becomes an upper structure resting on a foundation inasmuch as the entire theoretical edifice of the society is reared-up on a common (general) theoretical base, and draws together several stories some of them resting on the other (in such a manner) that the preceding story is considered the base and foundation of the story built upon it. The economic doctrine (system) and the (civil) law are two such theoretical structures.

The (civil) law is the upper story of the two, and takes shapes in conformity with the (economic) doctrine (system) and is determined in the light of the theories and conceptions which that doctrine (system) of economic represents.

Let us, for the sake of clarification of this (point) take an example, from the free capitalist doctrine (system) of economics and its connections (affinities) with the civil laws in their theoretical and actual field in order that it may embody for us the connection holding between the (economic) doctrine (system) and the (civil) law and the extent to which the law is affected by the doctrine theoretically and actually.

Then it will be from the sphere of personal rights of the civil law that we will be able to understand the effect of the (economic) doctrine on it (the civil law) when we would learn that the theory of obligation — and it is the corner-stone of civil law — has received its theoretical contents of thought from the nature of the capitalist economic (system) during the interval at which the capitalist thoughts of economic freedom were ranging and the principle of free economy held sway over the general thoughts. Then the appearance of the principal of the power of will over the theory of obligation was the result of that. The theory of obligation bears the doctrinal stamp of capitalism since it lays stress — following from capitalism's belief in freedom and its individualist trend — upon the fact that it is the private (personal) will of the individual which alone (by itself) is the source of all the personal obligations and rights, and refuses to

believe in the existence of any individuals having any right over another individual or of society's over individual which does not conceal behind it the individual's free will proof in accordance with which an individual admits as the proof of such a right over him out of his free and full willingness.

It is clear that a person's refusal of the acknowledgement of a right of an individual which the (person) himself does not cause to proceed from himself out of his full and free will cannot but mean the faithful translation of the ideal signification of the capitalist doctrine — the doctrine of economic freedom — from the economic doctrinal field to the legal field. Because of this we find that when the theory of obligation is founded on another doctrine (system) of economics, it differs from this and in such a case the role of the will becomes weak in a far greater measure.

Some of the evidences of the translation of the theories of the capitalistic economic doctrine to the details of legislative enactment on the legal plane are the permission of the civil law founded on the capitalist basis of its institutions for the contracts of sale, credit or hire, for the sale of a ready quantity of wheat against a higher quantity to be made over at a later date, or giving of goods on credit at a certain percentage, or of capitalist hiring of labourers employed for the extracting of petrol by the means it owns, in order to own that petrol. The law when it permits all these, it, in fact, only receives justifications for this permission from the capitalist theories of the (economic) doctrine on which the law rests. The same thing we find in the field of the substantive (real) rights of the civil law: the right of property, and it is the main substantive (real) right. The law regulates this right in accordance with the general standpoint which the economic doctrine (system) takes up, in respect of the distribution of wealth. The doctrinal (system of) capitalism when it believes in the freedom of the ownership (of property) and looks to (the ownership of) property as a sacred right, it imposed upon the upper story of its capitalist structure (edifice) to permit the individuals to own (property rights in) mines in keeping with the (principle of the) freedom of property and to give priority to the consideration of the interest of the individual as to the benefit of the property he owns over any other consideration and that it should not deny or prevent the individual from making use of his property in a way he fancies or it meets his sweat-pleasure, irrespective of whatsoever, its effect be on others

as long as the (ownership of) property and freedom are the natural rights of the individual and not a social function an individual exercises within the society.

When the age of the economic freedom began to decline and the sense of private property underwent a change, there appeared the civil laws which denied the ownership of some kinds species of wealth and natural tracts (as his private property) and did not permit him to abuse his right as to the free and investment or the enjoyment of the property or goods owned by him.

All this brings to light and makes explicit the relation of interdependence holding between the civil law and the (economic) doctrine (system) to such a degree that it makes it possible of becoming acquainted with the economic doctrine (system) and its original feature by way of the civil law, so a person for whom it was not feasible to have direct acquaintance with economic doctrine (system) of any country, can take recourse to the civil law of that country — not as the economic doctrine (system) of that country — for the economic doctrine (system) is different from (its) civil law — but in the scene that it is the super-structure of the (economic) doctrine (system) and the upper story which reflects the content of the (economic) doctrine (system) and its general characteristics. In that case it would be possible for him in the light of a study of the civil law of that country to know easily the country’s being capitalist or socialist, may not only this but even the degree to which the country behaves in capitalism or socialism.

Summary:

So far we have already discussed on the difference between economic doctrine and science of economic, in general, and the difference between economic doctrine and civil law. From this discussion we could derive that it is wrong to talk about Islamic economic doctrine as a science of economic or as a collection of agreements at the level of civil law which set up the rules of dealings and alike.

Besides, we have also learnt the nature of relation between the doctrine and the law ; and in the proceeding chapters we shall see the great effect of this relation, God willing.

Since we have now realized the existence of economic doctrine in Islam being different from the science of economic; and made distinction between the doctrine and law by understanding the kind of relation between them, we should now discuss about our future work on Islamic

economic in this book and scrutinize its particulars and their main points. We should also explain our practical method based on our previous study of the doctrine, in general, and the difference between science and law based on the kind of relation which ties up civil law to doctrine.

The Process of Discovery and the Process of Creation:

The research work we shall carry on in our study of the Islamic economic doctrine (system) differs from the research work the leading exponents of the other economic doctrines (system) have carried out. The inquirer of the Islamic (economic) doctrine (system) feels that his stand point is basically distinctive from the stand point of any other seeker of economic doctrine (system) from among those who have carried on research work in respect of the economic doctrine and have given the world different doctrines (systems) of economy like capitalism and communism.

The Islamic (economic) thinker is (finds himself) before a completely formed and finished (system of) economics and he is called upon to the discernment of it in its real aspect, the determination of its general frame-work the disclosure of its basic rules of thought (which govern it) the overcoming as far as possible of the density of the accumulations of times and the long distances of historical intervals, the presentation of its original features, the intensive suggestions of untrust worthy experiments carried to make them conform with Islam, and the freeing of them from the frame-work of non-Islamic cultures which rule over the understanding of things in accordance with their nature and trends of thinking.

To endeavour to get over all these difficulties and to overpass them to reach at an Islamic economic doctrine is the business of the Islamic (economic) thinker.

On this basis it can be said that the process we shall pursue is a process of discovery. Contrary to this it is the case with the thinkers who advocate the (economic) doctrine (system) of capitalist and communism, for they pursue the process of creation or invention.

Each of the processes, the process of discovery and the process of creation (invention) has its characteristics and distinctions which are reflected in the inquiry which the Islamic discoverers and the capitalist and the communist inventors carry on.

And the most important of these characteristics and the distinction are the determination of the manner of the conduct of the procedure and its generalization.

In the case of the process of the creation (invention) of the economic doctrine (system) and when the building up of a complete theoretical structure of society is meant, thought takes regular succession and its natural cause succession and performs the work of formulating, in a direct way, the general theories of the economic doctrine (system).Then it makes them the basis for the secondary inquiries and for the formation of the superstructure of laws which rest upon the economic doctrine (system) and are considered as the upper story in relation to it, like the civil law which we earlier learnt is dependent upon it and is founded on its basis.

However, in the process of the discovery of the economic doctrine, reverse is the course of the procedure and the work of going about it and that is when we are in front of the discovery of the economic doctrine we do not have in our possession an explicit picture of it (the doctrine) or any aspect of it or a definite shape (of the doctrine) before its being formed as when we do not know as to whether the doctrine holds the principles of the common property or in the private property or when we do not know about the doctrine's theoretical basis of the private property, whether it is, want need or work or freedom?

Under this circumstance, so long as we do not have in our possession a definite text by a formulator of the doctrine (system) that means to discover it, to disperse the obscurity which encompasses the doctrine (system). There is no alternative but to make search for another method to employ it for the discovery of the doctrine or for the opening up of some of its dark parts.

This method we can determine in the light of the relation of interdependence holding between the (economic) doctrine (system) and the (civil) law a relation which we have explained earlier. for as long as the civil law is the upper story *vis-à-vis* (economic) doctrine (system) and receives it direction from it is possible to discover the (economic) doctrine (system) by way of the civil law when we know the civil law which rests on that unknown (economic) doctrine (system). Hence it is necessary for the process of discovery to make search for the scattered radiations of the (economic) doctrine in the exterior sphere, that is from its superstructure and from such traces (traditions) of it as are reflected

within it in the different fields so as to arrive by way of these radiations and traces (traditions) at the formation of a definite estimation of the kind of the thoughts and theories about the economic doctrine which lie hidden behind these appearances.

By this it prescribes for the process of discovery to follow a course reverse to the course which the process of creation follows for the process of discovery proceeds from the upperstory to the base of it, and sets about it by collecting all the traces and stringing them together, to the obtaining of in a definite way the shape form of the economic doctrine instead of setting-out from the formation of the doctrine to the forking of it in branches.

This will be wholly our standpoint in respect of the process which we shall pursue for the discovery of the Islamic (system of) economics or more correctly a greater part of it because while it is possible to adduce some aspects of the Islamic economics, directly from texts, yet there are some fundamental theories and ideas, it is not easy to reach by direct texts and the reaching to them can be determined only indirectly that is on the basis of the upper story of the Islamic edifice and on guidance from the laws by which Islam regulate the matter of contracts and rights.

So we proceed from the upper story and descend gradually to the story which precedes it because we are carrying on the process of discovery. As for those who are carrying on the process of creation and are trying to build-up the structure (of economic) and not the discovery of it, they ascend from the first story to the second, since they are carrying-out the process of creation and the construction of the structure, and the second story does not occur in the process of structure except afterwards.

In this way, our standpoint from the very beginning differs from the standpoint of these fore-runners of the capitalist and doctrine (system) of economy, nay not only from these but even from those of the leading fore-runners of the capitalist and socialist doctrines (system) of economy who are engaged in study of the discovery and the determination of their economic doctrines (system) inasmuch as it is within the range of possibility of their reaching in direct way. These economic doctrines, conformably to the general forms of them heralded by the leading fore-runners. Our acquaintance, for instance, with the economic doctrine (system) of Adam Smith does not depend upon our study of his thoughts in the sphere of the civil law or the method it chooses to follow in regulating the (civil) obligations and rights rather than that we can

combine the initiation of the study of it with his doctrinal thought in the economic sphere. The case is contrary to this when we wish to seek to know many of the contents of the economic doctrine in which Islam believes, for as long as we are not able to find the definite shape of that in the Islamic sources, as we find it in the case of Adam Smith, we will be compelled, *ipso-facto,* to the pursuing of traces of it and the discovering of the economic doctrine in an indirect manner by way of the land marks of it as are reflected in the upper structures of the Islamic edifice.

This is what makes the process of discovery which the Islamic thinker pursues to appear, sometimes, in an inverted shape. It rather appears that it makes no distinction between the economic doctrine and the civil law when it tries to present Islamic ordinances on the civil law level and when it intends to study the economic doctrine in Islam. However it will indeed be right in doing so as long as it tries to present those ordinances as the upper structure of the (economic) doctrines capable of yielding of its discovery not in the sense that these themselves are the Islamic economic doctrine and theories

The Financial System as the Civil Law:

In this connection it is necessary that we adjoin the financial system, too, with the civil law as one of the superstructure of the economic doctrine which reflects its features and takes shape according to its requirements; and just as it is possible for the process of the discovery to avail of the radiation of the reflected doctrine of economic on the civil law so it is likewise possible to avail of the similar doctrinal radiations in respect of the financial system.

When we want to site an example of this effect of the economic doctrine on the financial system qua a superstructure of it, we can find such an example in the relationship of the economic doctrine with the general financial system, as we earlier did to try to understand, of the connection which holds between the economic doctrine and the civil law by determining the relationship of the capitalist doctrine and the civil law by determining the relationship of the capitalist doctrine (system of economics) with the general financial system. One of the manifestations of the relationship between the capitalist system of economy and the general system of civil law is the effect of the thought of domain. By domain is meant those goods which are the properties of the state such as

lands, forests, mines which the state possesses and yield revenue to it just as the lands, forests and factories yield several of the profit to the private owners who own them. The domain is considered in the financial system as one of the main source of revenue of the state. The idea of domain became weak and the range of the state, owned projects narrowed down, and almost disappeared from the financial system of the state under the influence of the principle of economic freedom when the capitalist doctrine (system of economy) held its despotic sway and the idea of the capitalist doctrine (system) became the dominant force. One of the requirements of which is consideration of the safeguarding of the economic freedom was the non-interference of the state in the productive activity, except in small laundries which were incapable of being operated upon by individual activity on account of this it was but natural that the capitalist state rely for its general finance upon the taxes and such other sources of revenue. Then again the domain recommended its existence, as an important source of state-revenue and widened its range after the appearance of the trends of communism towards leadership and the decline of the principle of economic freedom from the general economic thinking.

One of the evidences of the bond of relationship between the economic doctrine and the general financial system, is, that the revenues of the state differ in their functions conformably to the kind of the doctrinal economic ideas by which they are affected, for during the interval when the idea of the economic doctrine with its idea of economic freedom was dominant, the basic function of the revenue was to cover expenses of the state as an apparatus for the maintenance of the peace and the defence of the country. When the communist ideas began to invade the field of economic doctrine (system) there came to revenues a more momentous undertaking that is the undertaking for the curing of the unfair distribution of wealth for the removal of disparity of social states between classes and the establishment of social justice. The state was not disposed to remain content with the collection of the revenue or the taxes to the extent it would cover its expenses as a machinery for the maintenance of the peace at home and the defence of the country but widened them to the extent they would cover the expenses for the discharging of the new undertaking it had prescribed for itself.

These evidences furnish the proof as to the general revenue of the

society being adopted conformably to the fundamental principle of the economic doctrine just in the same way as the civil law is adopted a matter which makes out of it an observation post for the process of discovery as an upper story from which the discoverer commands the view of the preceding story that is to say the economic doctrine.

Summing up and Deductions:

On the basis of what has been stated before it becomes necessary that we may include a number of Islamic Ordinances and legal enactments, which may be construed as the superstructure of the economic doctrine, within the orbit of the process of discovery of the economic doctrine even if they be not wholly included in the core of the doctrine itself.

For the sake of this, the discussion in this book will contain many of the ordinances in respect of *mu'āmalāt* (pecuniary and personal relations) and rights which regulate the pecuniary relations between individuals just as it will contain some of the ordinances of the sacred law for the regulation of the financial relations between the state and nation, and the determination of the state's sources of revenue and its policy in respect of the disbursement of these revenues, inasmuch as this book is not a book only for the presentation of the Islamic economic doctrine but it is a book which attempts to pursue the process of this doctrine and to determine for this process its modus operandi, course subject matter and its results.

For this purpose we shall pick up and arrange, in order such of the ordinances of Islam in respect of the *mu'āmalāt* (pecuniary transactions between individuals) rights and taxes as may be counted the superstructure of the economic doctrine and throw light on it in the process of discovery. As for the ordinances which have no share in throwing such a light on it, will be excluded from the sphere of this inquiry.

We shall mention by way of example the matter of interest, (deceit) the tax of equilibrium and the tax of religious war. Now Islam has prohibited interest in the pecuniary transaction, just as it has prohibited deceit. But the unlawfulness of the interest and the prohibition of lending or borrowing against interest has a share in the process of discovery inasmuch as it is a component part of the

superstructure of the theory of the distribution of the wealth produced and as such reveals the general basic rule for the distribution of wealth in Islam, which shall be taken up in the discussion about (the question of) distribution after (the question of) the production. As for the matter of the unlawfulness of deceit (cheating), it does not come alone within the doctrinal frame of the economic. Hence all countries, though differing in their systems of economy agree on this. Similarly in the case likewise in the matter of the tax of its unlawfulness equilibrium and the tax for war (*jihād* crusade). Now the tax of equilibrium which Islam imposes by law for the maintenance of the equilibrium like *zakāt,* for example, enters into (has a part in) the process of discovery but not so the tax of war (crusade) which Islam enjoins for financing the army of the *mujāhidīn* (the crusaders) for it is a part of the mission of the Islamic state and not of economic doctrine (system) of Islam.

The Process of Synthesis Between the Laws (Ordinances):

When we take up the collection of the prescriptions of Islam which regulate *mu'āmalāt* and the rights and obligations (of the individual members of the community) let us pass on from it to what lies deeper (in it) to the fundamentals rules which give shape to the economic doctrine (system) in Islam. (In this connection) it is necessary that we do not content ourselves with the presenting and the scrutinizing of each one of those rules (ordinances) in a manner as if each one of them was independent and isolated from those of the others. The method of isolation or individuation in respect of the discussion of each one of these ordinances only harmonizes (runs concurrent) with the discussion (of them) on the level of the civil law in respect of the ordinances of the sacred law. The level allows the presentation of the details independent (free from) of each other. Because a study (examination) of the ordinances (rules) of the sacred law does not on the civil level make a survey (trace) the elaborated spheres of those ordinances (rules of the sacred law). It only undertakes to present the ordinance of Islam which regulates the transaction contrast of sale, of lease, of loan or of partnership, for instance and after this, it is not responsible for bringing about a synthesis between these ordinances which leads (points) to a general rule, but when our study of these ordinances and the presentation of them will form a part of the process of discovery, the mere presentation of the details of them will be of no avail to us

even though many of the propend of Islamic economic system are content to carry their search to this extent (only) say rather we would say there is no way out for us but to achieve synthesis between these details, that is, we should study each and everyone of them as component parts of a whole and as an aspect of the well bounded together composite general shape, so as to arrive from this at the discovery of the general rule which emanates from within a whole or from a composite whole, and which is suitable for the elucidation or justification of it. As for the method of isolation and the view of individuation, we will not be able to attain the discovery by it.

The suppression of interest in the contract of loan (or credit) legal sanction for the earning resulting from the means of production in a contract of lease, denying the lease to become the owner of the physical material (land, mine, etc.) he has acquired by lease-contract, all these ordinances (laws) must be studied — after the assurance of their legal validity — carry out by and bring about the synthesis, between them so as to make it feasible for us to draw out from it the fundamental law of Islam in respect of the distribution of the wealth produced, which distinguishes the stand point of Islam in respect of the distribution of (earned) wealth from the stand point of the communist doctrine which sets up the distribution of the produced wealth on the basis of work only and from the stand point of the capitalist doctrine which establishes the distribution of it on the basis of the elements, the material and human, which jointly take part in the creation of the produced wealth.

The Conceptions of Share in the Process:

We can put the conception that forms an important part of Islamic tradition in the same class with the prescripts of law which help towards the discovery of the Islamic economic doctrine.

By conception we mean every view or concept which explains a cosmic or social or legislature fact. The doctrinal belief of Islam about the relation of the Universe with Allāh, the Supreme and its connection with Him expresses a definite conception of Islam in

respect of the universe.[1]

The Islamic doctrinal belief that human society has passed from (the instinctive and natural stage to) the stage of reason and reflection ruled, expresses the Islamic concept of human society.[2] The Islamic doctrinal belief that the ownership of goods and property is not the personal right of man but devolves upon him by virtue of the process of his appointment to the vicegerency of God reflects the specific Islamic concept about a definite legislation the establishment of the institution of private property, according to the Islamic conception the goods and property are the goods and property of Allāh in their entirety and God appoints sometimes individuals as His vice gerents for the management of the goods and property. The conception expresses by this that man's right to property is a right which he holds by virtue of a legislative act which appoints him to the vicegerency of God in respect of it, (that is he holds it as trust from God).

Then, the conceptions have different angles of views, and Islamic concepts for the interpretation of the universe and/or its phenomena or the society and its connections or any of the established precepts of law and it is on account of this that they are not included in the precepts in direct form. But not with standing this a portion of these conceptions that is the portion connected with the economic life and its phenomena or with the established legal precepts of Islam will be of use to us in our endeavours of search for the economic doctrine of Islam.

In order to make explicit the part which this portion of conception play in the way of determining the land marks of the economic doctrine of Islam, we should forestall the results which the following discussions will record a little later and borrow from the two conceptions which enter into the process of the discovery of the economic doctrine of Islam, the subject matter of the study of this book.

[1] Unto Allāh belongs whatsoever is in the heavens and the earth. Allāh encompasses everything. (Qur'ān, 4:126)

[2] Mankind were one community and Allāh sent unto them prophets and bearers of good. (Qur'ān, 2:213). Mankind were but one community then they differed (Qur'ān, 10:19)

The first of these two conceptions is the Islamic conception about property according to which Allāh the Supreme appointed a group of people as His vicegerent (trustee) over the natural goods and wealth and created from legislature enactment of private proprietor-ship modus operandi within which an individual can realize the demands (mandates) of the vicegerency as to the increase of the goods and property (*māl*) entrusted to him, the protection of them and dispensation of them to the interest and welfare of man, so, the ownership is an operation an individual carries out on account of the society and on his own account within the society.

The other conception, borrowed in advance by us from the future discussion is the view of Islam concerning exchange as one of the phenomena of economic life. According to it, the exchange by its original nature constitutes a branch of production and for when a merchant sells the products of another person he thereby shares in the process of production. Production is always a production of utility and service not a production of matter. Material or substance, cannot be created a new for the commodity produced and the preparation of it for the delivery of it to the hands of consumers, realize a new rather a commodity has no utility *vis-à-vis* the consumers without this preparation of it. Every tendency of exchange, which time distances it far from its true occurrence and renders it an intrusive operation meant only for the beneficiary and results in the lengthening of the distance between the commodity and its consumers, is an anomalous tendency differing from the nature of the function of the exchange.

Let us defer the Islamic understanding of these two conceptions and its elucidation more elaborately to its place in this book and make a presentation of it as much as it positively necessary to explain the part they play in the process of the discovery of the Islamic economic doctrine, even though it will involve us a little in repetition of it.

So we can fully comprehend and determine in the light of the pattern of these two Islamic conceptions, the role which the likes of these conceptions play in the field of inquiry and the process of the discovery.

Then these are some of the conceptions which play their part in casting their rays on some of the precepts the Islamic civil rules and regulations make easy the task of understanding of them from legal texts in which they are given as well as of gaining mastery over the obstacles which stand in the way of it. The first of these conceptions is the conception about the

institution of private property, we have mentioned a while ago. It disposes the mentality and makes it ready to accept the texts of Islamic law which restrict the right of the owner to his property in correspondence with the demands of general good and interest of the society. The ownership of a property according to this conception is a social function which the legislator entrust to an individual so that he may share in the carrying out the burden of *khilāfah* (vicegerency) on the earth with which Allāh has honoured man and not a personal right not admitting specification, nor exception (an inabenable right). Hence it is natural that the right of holding property be subordinate to the demands and obligation of this *khilāfah*. It is easy in the light of this to accept the texts restricting the power and authority of an owner over the property he holds and sanctioning the seizure of it at sometimes from the hand of its owner texts of Islamic law about the land, which say that it should be taken from the hand of him who has and holds it and be given over to someone else, make it fails to cultivate it fruitfully or to give proper case to the tendency of it in keeping with the demands of his vicegerency.

Many Muslim scholars of Islamic law, however, are in two mind about accepting these texts of Islamic law since these texts violate the sanctity of its institution of private property. It is, however, obvious that these scholars had but looked at those texts with the eye-glass of Islamic conception about the institution of private property, they would not found it difficult to accept them and respond to idea and spirit which underlies them.

By this we know that the Islamic conception in the economic field, assume the form of an ideal from their adoption is necessary so as to give a complete and definite shape to the law legislating text of Islamic traditions within it and to make them easily understandable. We find that some of those legislation texts have precisely adhered to this sense. They have given this conception or this frame, by way of preface in giving the rule of Islamic law. It is mentioned in the tradition in the case of the land and the man's ownership of it; ''The land belongs to Allāh, the. Supreme. He has handed over to His servants (men) to hold it in trust. So he who leaves it lying idle and uncultivated for three consecutive years without any reason, it should be taken from him and be given to someone else''. From this we see

that the tradition has taken the help of a definite conception about the ownership of the land and the role of the individual in respect of it by which it explains the rule for the seizure of the land from the hand of its owner and justifies such a seizure.

Some Islamic conceptions set up the creation of a rule of filling the lacuna (gap in the law of Islam) supported on their basis which gives the ruler the right to fill it. For example, the Islamic conception concerning exchange, mentioned before by way. The conception is good for being a basis for the state using, in the fields of regulating the exchange so as to prevent within the limits of its capabilities, every attempt at separating the exchange of goods from the production of them and the making exchange a process for lengthening the passage between the commodity and its consumer instead of rendering it a process of procuring the commodity and bringing it within (easy) reach of its consumers.

So, the Islamic conception play either the role of casting rays on the general legislature texts or the role of providing the state with a species of economic legislation by which the belt of lacuna which may be found therein should be filled up.

The Belt of Lacuna in the Economic Legislation:

When we make mention of the belt of lacuna in the economic legislation, we must give great importance to it during our operation of the process for the discovery of the economic doctrine for the lacuna represents a side of the Islamic economic doctrine. In fact, the Islamic economic doctrine consists of two side, one side which is filled on the part of (formerly by) Islam in a completed form admitting of no change or modification. And the other side which forms the belt of lacuna, the business of the filling of which Islam left to the ruler (*waliyyu'l-amr*) or the ruling authorities to be filled in accordance with the demands of the general aims and objects of Islamic economics and the expediency of the requirement of every age.

Now when we speak of the belt of lacuna we mean by it as related to the Islamic legislation and its legislation texts and not as it is related to the practical situation in which the community of Islam lived during the period of the Prophet. That lacuna the great Prophet filled to as the aim of the Islamic law in the field of economics demanded in the light of the

conditions and the circumstances in which the then Islamic society lived. However, it was not that when the Prophet set out to fill this lacuna, he did it his capacity as a prophet, the promulgator of divine law, invariably fixed and established for every place and time. As to render this particular filling as the mode of action of the Prophet in filling up that lacuna- enterpretive of patterns of permanent legislation, but filled it in his capacity or a ruling authority (*waliyyu 'l-amr*) charged on behalf of Islam with the duty of filling up the belt of lacuna in the existing law, in accordance with the expediency of conditions and circumstances.

From this we wish to extract the following results firstly that the foundation of the Islamic economic doctrine cannot be accomplished without the inclusion of the bell of the belt of lacuna in its search and the estimation of the possibilities of this lacuna as well as the extent to which it is possible for the process of filling it to share with belt which was filled on behalf of the *sharī'ah* in the early days of Islam for the realization of the aims of Islamic economics.

But if we neglect to do so it would near the apportioning of the possibilities of Islamic economic with a view to its statistic elements not with a view to its dynamic elements. Secondly, the species of the legislation which the prophet affected to fill the lacuna, were not injunctions of permanent nature. The Prophet did not issue them in his capacity, as the promulgator of the permanently established injunctions (which admit no alteration, change or modification) but in the sense of his being a ruler and guardian of the Muslims. Then as such they cannot be considered a permanent part of the economic doctrine of Islam yet they throw light, to a great extent, on the operation of filling up of the lacuna which must be carried out every time according to the expediency of the circumstances and makes easy the understanding of the fundamental aims and objects to which the Prophet adopted his economic policy, a thing which always will help filling up of the belt of the lacuna in the light of these aims.

Thirdly: The economic doctrine of Islam on this basis is completely bound up with the system of rule in the field of practice when these would not be found a ruler or a ruling machinery enjoying same qualifications which the Prophet enjoyed in his capacity as a ruler, and not in his capacity as a Prophet, there will be little chance of the lacuna in the economic doctrine (system) being field in accordance with the circumstances with what Islamic aims enjoin and consequently the

adopting the economic doctrine (system) to a course so that we may reap its fruits and realize its aims would not be possible.

It is obvious that as long as this book talks of the economic doctrine, it is no part of its business to bulk about the system of government in Islam and the kind of person or the governing authority who will be suitable to succeed the Prophet to his legally to the office of his authority (*wilāyah*) or to his qualifications as a ruler and not as a Prophet, nor about the conditions which must be fulfilled in the case of such an individual or authority. All these are extraneous to the discussions of this topic so far the purpose of the discussion of this book we will assure, a legitimate ruler, allowed by Islam as having forthwith the qualifications of the Prophet in his capacity as a (temporal) ruler and avoid it in the way of making possible the talk about the Islamic economic doctrine a belt of lacuna existing therein as well as the visualization of what of aims it can realize and promote its fruits.

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But why was a belt of lacuna was in the Islamic economic doctrine unfilled from the very beginning on behalf of Islam with the permanent enjoyments (ruler of law) and what is that thought which justifies the existence of this belt (region) in the economic doctrine and the leaving the matter of filling it to the ruler? And subsequently what are the limits of the belt of lacuna in the light of the indications of Islamic jurisprudence? Answer to all these, we will, God willing, make in our coming discussions.

The Process (Operation) of *Ijtihād* and the Subjectivity:

We have so far learnt that the fund we possess for the process of the discovery of the economics doctrine (system) of Islam is its legal rules and it conceptions. Now the time has come for us to say a word about the method by which we can acquire those legal rules (*aḥkām*) and conception and the danger with which that method is best. When it is by way of the Islamic rules and conceptions that we can discuss the economic doctrine it is natural that we may seek the answer to the question how can we acquire these rules of law and conceptions

themselves.

And the answer to this question would be this: We will meet these rules and conception face to face and directly on the Islamic text which comprise of a definite Islamic legislation or a definite Islamic point of view. So all that we shall have to do is to obtain texts of the Qur'ānic verses and the *sunan* (sayings or tradition) about the sayings and practices of the Prophet, so as to gather up a number of such Islamic *aḥkām* (rules or law) and conception by which we can reach at the end of the general economic doctrinal theories.

Nevertheless it is not so swept as that of collecting merely the texts but more is required to be done for the texts more often do not display their legal or conceptional contents the legal rule or conception in such a completely explicit and definite manner as to admit of no (chance of) doubt from any direction on the contrary in many a case the content is suppressed or they reveal diverse and ill-arranged contents under these circumstances the understanding of the text and the discovery of the definitive content of the text because a complicated (complex) process of *ijtihād* (independent legal opinion; examine of human reason to ascertain the rule of *sharī'ah* law) and not an act of plain common sense. We will not attempt in this field to point out to the nature of this process, its juristic principle norms (rules) and modes all that is extraneous to the present subject we want only to state in the light of it, the matter of fact about the economic doctrine (system) and to caution against the dangers which may be fall in the cover of the carrying out of the process of discovery.

As far the fact of the matter it is this: The form of the economic doctrine which we will create since it depends upon the Islamic (economic) rules and Islamic (economic) conceptions and inasmuch as these rules and conceptions depend upon a form of result of a particular *ijtihād* in the understanding of the text which comprise these rules and conception and the method of arranging these text and bringing them together, will be a reflection of a definite *ijtihād* it cannot be decided with a finality that the form is an actual form of Islamic economic doctrine (system) since error in *ijtihād* is possible so on account of that it is possible that different *mujtahid* (one who exercises *ijtihād* that is consensus and independent nature of opinion and judgement) might present different forms of Islamic economic doctrine (system) in accordance with their diverse *ijtihād.* All these forms

will be considered as forms of Islamic economic doctrine (system) because they represent exercise of the process of *ijtihād* allowed and acknowledged by Islam and patterns and norms (rules) of which it has formed. In this way as long as being a product of a legally valid *ijtihād,* they will be deemed Islamic forms irrespective of the extent of their conformity to the reality of the economic doctrine of Islam forms irrespective of the extent of their conformity to the reality of economic doctrine (system) of Islam.

This is the fact of the matter. As far the danger arising on the basis of the *ijtihād* for apprehension of the *aḥkām* (rules of law, regulations or ordinances) and conceptions from the (legislative) texts of the Qur'ān and *sunnah* (the practices of the Prophet) with which the process of the discovery of the economic doctrine (system) is best is that of the subjective (personal) element (factor) creeping into the process of *ijtihād* because, the more the conditions of the objective approach in the process of the discovery are fulfilled, and the further it is from bearing the mark of subjective contribution the more precisely accurate and more successful will be the realization of the aim; and but if the exercise of the *ijtihād* adds to his work of apprehension of the text something of his personal subjective element or shares in the contribution to it in the understanding of the text during the course of his process of discovery the inquiry will lose thereby its objective integrity and the discovery its mark of genuineness. (Let mark of genuine discovery.)

The danger will be intensified and aggravated when great distances of historical and factual distances divide the person of the exerciser of the *ijtihād* and the texts on which he exercises his *ijtihād* and when those texts will be in connection with the treatment of matters actually existing in the life of the exerciser of the *ijtihād* and confronting him as an actual reality altogether different from the methods of those texts in the treatment of those matters, like the texts connected with the social sides of human life. On this account the danger of subjectivity from the exercise of *ijtihād* in case of the process of the discovery of the Islamic economic doctrine will be greater than the process of the exercise of the process of *ijtihād* in the case of other individual rules like the directive as to the purification of the stale of a bird or the prohibition as to weeping during the *ṣalāt* (Islamic prayer) or the obligation of the disobedient as to *tawbah* (repentance, turning to God). So on account of the importance of the danger of subjectivity in the exercise of *ijtihād* in the process of the discovery of the Islamic economic doctrine, it is incumbent upon us to

clarify this point and to delimit the sources of the danger. In this connection we can mention four following factors as the main sources of it.

a) Justification of the existing reality.

b) Incorporation of the text in a definite framework.

c) Separation of the legal *(sharī'ah)* evidence (ground from its conditions and circumstances.

d) Adoption of a definite point of view before-hand towards the texts.

A- Justification of the Existing Reality :

The process of justifying the reality is an attempt on the part of the exerciser of the *ijtihād* to develop and put up a particular construction upon a text to which he is driven intentionally or unintentionally to justify *a fāsid* (defective) reality in which he is living. He considers it as an inescapable necessity of the existing reality confronting him as some other Muslim thinkers have done, and like them he has succumbed to the existential social reality in which he is living and has tried to adapt the *naṣṣ* (text) to the reality in which he is living rather than think of charging the reality on the basis of the *naṣṣ* (text). He has interpreted the grounds of the unlawfulness of usury and profit and so derived therefrom the conclusion which fits in with the *fāsid* reality. It is this ''Islam allows interest (on loan) provided it is not doubled and redoubled; (a compound interest). Islam prohibits it only when it reaches an unseemly amount (exceeds the reasonable limit) as is stated in the holy verse: O *you who believe devour not usury doubled and redoubled. Observe your duty to* (fear) *Allāh that you may be successful* (Qur'ān, 3:130). And the reasonable limits are the limits which the interpreter finds in the living reality of his life and his society. In fact it is the existential reality of his life which prevents him from comprehending the object of the verse which is not aimed to the object of permitting the charging of profit on loan, which did not double and redouble but to draw the attention of the usurer to the horrible consequences resulting from the usury, when it reduces the debtor to the object conditions of being burdened with leader debt to

the accumulation of the usurious profit and the continual abnormal increase of the (leaden) usurious principal, accompanied by the mounting usury of the debtor to his final collapse (destruction). Had this interpreter intended to live sincerely up to the spirit and teaching of the Holy Qur'ān away and free from (the influence of) the promptings of the reality of his social life and its delusions, he would have read and understood from the dictum of Allāh the Supreme:... *and if you turn back* (repent) *then you shall have the principals. You shall not wrong and you shall not be wronged* (Qur'ān, 2:279). That it was not a war against a certain kind of usury common in the age of ignorance, which multiplies the debt doubtly and redoubtly but a question of an economic doctrine (system) having a particular view as to the capital which determines the justification of its increase and puts a stop to every increase howsoever slight it be apart from the justification just as it lay down in require of the lender to be content with his principal, neither he shall wrong nor he shall be wronged.

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B- Incorporation of the Text in a Definite Framework:

As for the incorporation of the text in a definite framework it is the study of the text in a non-Islamic framework, and this framework may have or may not have emerged from an existing social reality. The exerciser of the *ijtihād* tries to understand the text within that definite framework, and when he finds it does not go well (tick) with it he puts it aside and passes by it to other texts which fit in within this framework or at least does not clash with it.

We have already seen how the texts which curtail the power of an owner of which permit, sometimes, the seizure of it, were set aside and other texts were preferred simply because those texts do not agree with the intellectual framework which upholds the sanctity of the private property to such a degree as to put it above all other considerations.

A jurist commenting upon the text which states that the land which the owner of it does not cultivate (be taken away from him by the *waliyyu 'l-amr* or the administrator) and to be given to another to be

cultivated on behalf of the community, has written that it had better be not acted upon, since it is contrary to the principles and grounds of reason and by grounds of reason he means the thoughts which affirm the sanctity of the private property in spite of the fact that this sanctity and its degree should have been derived from the law (*sharī'ah*). But when it is established beforehand and in a form that makes it possible for it to have its own way is understanding a legislative text well that is what is the meaning of making a deduction in a borrowed framework. If that were not so then which is that rational argument about the sanctity of the private property in such a degree as to prevent the accepting of the afore-mentioned legislative text. Is private property anything more than a relationship subsisting between the individual and the property? And the social relationship is merely taken for granted and a legal ordained by the society or any other law given for the realizing of a definite purpose? As such it enters neither in the province of purely rational nor that of emprico-rational inquiry.

Many an exerciser of *ijtihād* we find in a field like this as to the unlawfulness of the seizure of a property (land and estate) infering from a mode of interpretive reasoning that usurpation is intellectually an abhorent (odious) act. But this mode of reasoning is inept for usurpation is a seizure of a property without right (an unauthorized act) and it is law which determines, whether this seizure is rightful or otherwise so we should derive it from it without imposing upon it a preconceived notion and if it is decided that the seizure is without right (unauthorized), then it is a usurpation and if a persons' right to (its) seizure is assumed, the seizure would not be a usurpation and consequently not an abhorent act.

Another *faqīh* (jurist) using an interpretative mode of reasoning in respect of the legislation of private property in land has written ''Requirement calls for it and accentuates the need for it. As man is not like beasts but is by nature a civil animal, he must have an abode to take shelter in, and a place exclusively belonging to him to live in. So unless it (private property) were made legal, it would impose a great hardships nay rather, an unbearable burden.''

Of course, we all of us admit that there exists the institution of private property in Islam, specially in respect of land, but the thing which we do

not admit, however, that the Islamic legal ruling draws upon the idea of private property from its historical roots, as it happens to be the case with this jurist whose intellectual horizon and his conceptions of the past, the present and the future do not extend beyond the orbits of history in which the institution of private property has existed. He finds behind every appropriation in the history of the life of man, an image of the private property which justifies and explains it, so much so that he has become unable to distinguish ,between the reality and the image (shadow) (of it) and has taken to believing that as long as men requires appropriation of a resident he may take shelter in, — in term of his sense of it, is required that he should own a private property so that it may belong to him exclusively and in which he may take shelter. Had this exerciser of the *ijtihād,* been able to distinguish between a man's having a residence belonging to him and his possessing that residence as a private property of his own, he would not have been deceived by the historical implications of these two things and it would have been possible for him to have perceived with clarity that it is the preventing a man from having a house belonging to him exclusively and not the non-bestowal of the private owner-ship of that house which would be a burden beyond his capacity to bear. For the students in a university town or individuals in a communist society each one of them has a residence to himself in which he dwells without his possessing it as his own private property.

Thus we find that our *faqīh* (jurist) has derived unintentionally, from grandeur and history of the private property, and those things which inspire in him the idea of humanity's need for it, a framework for his juristic-thinking.

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Among the intellectual frameworks which play effective role in the process of the understanding of the text there is the framework of language such as when the basic word in the text is loaded with history, that is, its meaning has extended from and valued during the course of the passage of time. In such a case it will be natural for the exerciser of the *ijtihād* to be readily led excusably to the understanding of the word in its existing present sense, and not in its remote historical sense. It is possible that the word may have

acquired this sense quite recently and as a result of a new doctrine or of a growing civilization. On account of this an extreme precaution is necessary in determining the meaning of the word as not to let its being incorporated in the recent linguistic framework, which did not exist at the time when the word was coined.

The operation of the social conditioning of the word ‘proprietorship’ may have happened to share in misleading the exerciser of the *ijtihād* from the correct understanding of the text, for even when the word may have retained its original sense in spite of the passage of time, it becomes, in the course of definite social dressings of its sense associated with a particular idea or practice conditioned to that idea or practice so much so that at times the psychological sense of the word on the basis of the process of conditionings which result from a definite social formation exceeds the bound of the word’s original linguistic sense of at least the linguistic contribution of the word may have became amalgamated with the psychologically conditioned contribution of it which in fact is a result of the social formation in which the exerciser of the *ijtihād* lives more than its being an outcome of the word itself. Take, for example, the word socialism. The word has become, during the present day socialist doctrines of socialism, which are the living experience of the contemporary man conditioned to a mass of thoughts, values and practices and this mass forms to a certain extent an important part of its present day social sense even though on the purely linguistic level it bears nothing of these senses from this mass.

Likewise is the case of the word ‘subject’. The history of feudalism has urged it with a great sequel and has conditioned it with the feudal behaviour of the land-lord towards the serfs who cultivate for him his land. So when we come across the word ‘Socialism’ or texts which contain the word ‘Socialism’ or the word ‘Subject’ like the text which states that the people are co-shares in ‘water’, ‘fire’, and ‘grass’ or the text which states that ‘‘the lord (*walī*) has a right over the subject’’ we face the danger of responding to the social conditionings of these words and give to it the social meaning which exists far removed from the climate of the text instead of giving it the linguistic meaning which it indicates.

C- Separation of the Legal (*sharī'ah*) Evidence (ground) from its Condition and Circumstances

Separation of the legal ground from its conditions and circumstances in an operation of the extension of the legal ground without objective justification.

This operation is often perpetrated on a particular kind of legal grounds and these grounds are those to which the jurist applies the name *'at-taqrīr'*. In view of the fact that these kinds of grounds effect greatly the process of *ijtihād* performed in respect of the precepts and conceptions which are connected with the economic doctrine. It is necessary that we bring to light the danger which threatens this ground as a result of its separation from its conditions and circumstances.

Let us first explain the meaning of the term *at-taqrīr; at-taqrīr is* one of the expressions of the holy practice (*assunnatu 'sh-sharī'ah*). It means the silence of the Prophet or Imām as in regard of a definite action which takes place in the presence of him or which comes to his ear — a silence which reveals his (*at-taqrīr*) tracit consent (approval) of it and its validity in Islam.

at-Taqrīr is of two kinds because at one time it will constitute *a taqrīr* for a definite action, which an individual carries out such as when one drinks beer in front (in the presence) of the Prophet and the Prophet keeps silence. This silence on the part of the Prophet reveals the permission of the drinking of it in Islam. At another time it will constitute *a taqrīr* for a common action, frequently carried at by the people in their usual life. Such as when we learn from the usual practice of the people, during the (Islamic) legislative age of extracting mineral riches from the bowels of the earth and owing of it on the ground of their having extracted these riches. The silence and non-objection of the *sharī'ah* to this usual practice will be considered a (consent) *taqrīr* in respect of that practice and will constitute a ground of Islam's sanction to individuals to extract from the bowels of the earth its mineral riches and to own them. It is to this that the name *al-'urfu'l-'ām* or *sūratu'l- 'uqlāiyyah* (common usage, or practice of the common people) is applied in juridical discussion. Recourse to it, in fact reveals *sharī'ah* agreement with a practice common contemporaneously with the age of legislation by way of the non-occurrence of prohibition against it from the *sharī'ah;* for if the *sharī'ah* did not agree with that practice which was

contemporaneous with it, it would have forbidden that practice. So the absence of the *sharī'ah's* prohibition against it constitutes its permissibility.

This mode of reasoning depends upon a number of things: Firstly, the contemporaneous existence of that practice with the age of Islamic legislation should be established with historical certainty; for it were found that the practice obtained at later date than its being contemporaneous with the age of legislation then the silence of *sharī'ah* in respect of it would not constitute *sharī'ah's* approval of it. It will reveal *sharī'ah's* approval of it only if this practice existed contemporaneously with the age of legislation. Secondly: The absence of the issuance of prohibition by the *sharī'ah* against that practice should be established with certainty absence of its prohibition would not be deemed sufficient until the investigator establishes the absence of the issuance of the prohibition in respect of that practice otherwise he will have no right to declare Islam's sanction of that practice, since it is probable the *sharī'ah* might have prohibited it. Thirdly: All the objectively satisfied circumstances and conditions should have been obtained by a personal observation since it is possible that some of these circumstances and conditions may have affected the sanction of that practice and the non-prohibition of it. And when we have drawn up and methodically arranged with scrupulous exactness all the circumstances and conditions which surround that practice which existed contemporaneously with the age of legislation, it will be possible for us to discover from *sharī'ah's* silence, *sharī'ah's* permission of that practice when found within those circumstances which we have drawn up and arranged with scrupulous exactness.

Now in the light of this explanation we will be able to understand how a personal subjective element creeps into this ground examplifying the separation of the practice from its circumstances and conditions.

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This separation takes two forms. Sometimes the exerciser of the *ijtihād* finds himself living in a society in which a definite economic order prevails. He so clearly perceives the practice, its origin and deep rootedness as to become oblivious to, the factors which helped

the practice coming into existence and temporal circumstances and conditions which contributed to the preparation of the ground for its coming into existence. He therefore is led to think this practice to be deep rooted in the past and to have come down historically from the Islamic law making age while in fact it is born out of a definite recent conditions and circumstances or at least it has possibly come into existence in that way. Let us mention by way of an example, the capitalist products in respect of the works and mining industries. The reality of the day of this is crammed up with these kind of production which is exemplified by the hired labourer extracting the mineral materials like salt and oil (petroleum, from the bowels of the earth) and the capitalist paying them wages, and considering himself on account of this the owner of the material extracted . . . The hire-contract, this takes place between the capitalist and the labourers now appears so natural in its aforementioned contents and results as to make it possible for a large number of people to image that this kind of contract coincides with old times that is, it is as old as the men's discovery of the mines and his seeking to avail of them. They therefore hold on the basis of it that this kind of hire contract existed during the Islamic legislative age. It is quite natural from this for the idea to result using it as an argument for the validity of this hire kind of contract and the capitalist ownership of the extracted material on the ground of *at-taqrīr.* It may be said that the *sharī'ah's* silence and its not interdicting of this kind of hire contract constitutes a ground of Islam's permission of it.

We do not want to say anything in respect of this hire-contract and its requisites from the juristic point of view, nor about the dicta of the jurists, who entertain doubt as to its legal soundness in Islam or its requisites. We will examine the ruling of the law (*al-ḥukmu'sh-shar'ī*) in respect of this kind of hire-contract and its requisites with elaborate details at some future time, and will present all the arguments which it is possible to cite as authoritative grounds for and against it. Here we only want to examine the deduction of that hire-contract on the ground of *at-taqrīr* in order to bring out to light the fact of the divorcement of the practice from its conditions and circumstances. Now those who infer on the ground of *at-taqrīr* the legal validity and soundness of that (kind) of

hire-contract and its requisites, did not live in the Islamic legislative age, so as to be certain of the prevalence of this kind of hire-contract in that age. They witnessed its prevalence only in their actual life and the climate in which they lived. Its being firmly rooted in the ruling social system and order in which they lived, led them to the belief that it was a general phenomenon extending down historically from the Islamic legislative age. It is this what we mean by the separation of a practice from its conditions and circumstances without an objective justification. If that were not so, do we truly possess a ground to say that this kind of hire-contract did exist and was widely prevalent in the Islamic law-making age? And to those, who are sure of its existence in that age, know that that kind of hire-contract is the regular expression of capitalist production and that it was not found historically on a wider scale in or in widespread regions — especially in industrial field except at a later date?

However this statement does not mean the positive assertion of the denial of the existence of the capitalist production of the mineral materials in the Islamic legislative age — the practice of their extraction by hired labour — nor does it mean an advancement of a ground of it but merely expresses a doubt in respect of this being the case, and that is to say that how a definite phenomenon becomes so deep-seated and appears so natural as to lead to the conviction of its deep rootedness in the past and its chronicity simply because of its being rooted in the living reality without the complete satisfaction of the logical grounds of its historical antiquity.

This is the first form of the abstractive process — the separation of the living practice from its actual conditions and circumstances and its historical extension to the Islamic law making age.

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As for the other form of the abstractive process, it is that which takes place whenever we study a practice co-evil with the Islamic legislative age and try to discover Islam's sanction of it on the ground of *sharī'ah's* silence in respect of it. Under this circumstance the exerciser of *ijtihād is* likely to fall into the error of abstraction whenever he separates that practice co-evil with the Islamic legislative age from its circumstances, isolating the factors

which may have a part in its permissibility and generalizes it with the dictum that this practice is sound and valid in Islam under all circumstances whilst in order for the inference on the ground of *at-taqrīr* be objective, it is necessary that we include into our reckoning all the circumstances which may be likely to affect Islam's standpoint in respect of that practice for when some of those circumstances and conditions change, the inference on the ground of *at-taqrīr* becomes inept. For example, when you are told that the drinking beer in Islam is lawful, on the ground that such a one when he fell ill during the time of the Prophet drank beer and the Prophet did not forbid his doing so. You can say this in reply to it that this ground of *at-taqrīr* singly by itself is not a sufficient ground for the permission of Islam to every individual to drink beer even when he is sound in health for it is possible that in case of some diseases, drinking of beer may be allowable exceptionally, so then, it is a mistake to isolate a practice even with the Islamic legislative age, from its conditions and circumstances and to generalize the legal ruling in respect of every analogous practice without justification, even if it differs in respect of the circumstances by reason of which the legal ruling will differ. Nay, we should rather take ocular consideration all the individual circumstances and social aspects which surround the practice existing in the legislative age.

D- Adoption of a Definite Point of View Before-hand Towards the Texts :

By adopting of a definite point of view we mean, investigators own disposition towards the case. The disposition greatly affects the understanding of the texts. In order to clarify the idea of view-point we may suppose two persons studying the texts, one of whom is disposed towards discovering the social side and whatever is connected with the state in respect of the Islamic precepts and Islamic concepts, whilst the other is drawn by his own disposition towards discovering the precepts which are connected with the particular practice of the individuals. These two persons, although

they directly deal with the self-same texts will derive different results out of them and each one of them will reach results which would be more in keeping with his own disposition and his particular point of view and he is likely to remain blind towards those outstanding Islamic aspects, before his eyes towards which he is not himself disposed.

The effect of this ones own disposition which the subjectivity of the exerciser of the *ijtihād* imposes and not the objectivity of the discussion, is not confined to the concealing of some of the outstanding legislative land marks from his view but at times it leads him astray in the understanding of the legal texts and to the error in the deduction of the legal rule from them. This happens to be the case when the exerciser of the *ijtihād* wants to impose his personal (subjective) point of view which he has already adopted. In such a case he will not succeed in reaching correct explanation of them.

Instances of this are numerous in jurisprudence. The prohibition of the Prophet about surplus water and pasture is one of the most obvious instance of the extent of the process of deduction from a texts being affected by the disposition of the exerciser of the *ijtihād.* It is stated in the tradition that the Prophet passed judgement for the inhabitants of Medina concerning (the use of well water for) date-palm that no one was allowed to deprive others of the surplus water; and he passed judgement for the desert dwellers forbidding them the with-hold of the surplus water or sell of the surplus pasture. This interdiction of the Prophet forbidding the withhold of the surplus water and pasture may be construed as *sharīʻah's* general rule fixed for all the times, and places like the prohibition against gambling and drinking, just as it can be construed as a definite legal measure which the Prophet took in his capacity as *a waliyyu 'l-amr* (ruler) responsible for the welfare of his Muslim subject within the limits of his authority and qualification as a ruler. As such it will not be an absolutely binding general law of Islamic *sharīʻah* but an ordinance connected with its circumstances and experience as assessed by a ruler.

The subject of the discussion in regard to this text of the tradition of the Prophet imposes upon the investigator the duty of including both these suppositions and the determining of either of them in the

light of the text or similar texts.

As for those who adopt beforehand their personal disposition towards a text, they take it upon themselves from the very beginning to find in every text the general rule of the Islamic law and to look always *vis-à-vis* the texts to the Prophet in his capacity of an instrument for the promulgation of the general laws of Islam and to overlook his positive role in his capacity of a ruler. As such they will explain the aforementioned text on the basis of its being a general rule (binding for all times and places)[1].

This specific point of view does not spring from the text itself but results from the mental habit as to (his) image of the Prophet and his definite idea thinking about him. It is to this that attitude to which the exerciser of the *ijtihād is* led having been accustomed always to look to the Prophet in his capacity as the promulgator of his prophetic mission he is blinded to the Prophet's other identity of the ruler and consequently he is blinded to what this identity itself represents in respect of different texts.

An Occasional Need of the Subjectivity :

In the end we must point out to the one scope within which the subjective side is allowed when attempting the formulation of the definitive general idea in respect of the economics of Islam. It is the scope of the choice of the form purposed to be adopted for the economics of Islam out of a collecting of those forming which represent legitimate juristic *ijtihāds.* We have been already told that the discovery of the Islamic economic doctrine is accomplished through the process of *ijtihād* as to the construction of the meaning of the texts their symmetrical combination and the reconciliation of their implications into one bunch. We have learnt that *ijtihāds* differ and vary in kind subject to the difference of the *mujtahids* in their understanding the meanings of the texts in their manner of dealing with the contradictions which may appear between some of the

[1] They deduce on the basis of this that the prohibition is not an interdictory prohibition (*nahy tahrīm*) but a reprehensive prohibition (*nahy karāhah*) for they consider it improbable that the owner of the well is prevented from earning profit from his well-water for every time and in every place.

texts and in the general rules and patterns of the juristic thinking they may adopt. So also we have learnt that the *ijtihād* enjoys a legal status and an Islamic stamp as long as it pursues its function, depicts its form and delimits its land-marks within the frame-work of the Holy Book and the *sunnah* of the Holy Prophet and in accordance with the conditions not allowed to be by-passed.

From this results the augmentation of our stock in respect of the Islamic economics and the presence of the multifarious of its forms all of them *shar'ī* all of them Islamic. It is in such a case that we can choose in every scope the most effective and the strongest of the ingredients we may find in that form for the treatment of the problems of the (socio-economic) life and the realization of the highest of goals of Islam. This is the scope of the personal choice in which the investigator is the master of his freedom and opinion, but he is free only in his capacity as a discoverer. Nevertheless this subjectivity will no more be an option, nor an innovation for it makes give him freedom limited to the orbit of different *ijtihāds* and not a complete freedom.

As it is the author of this book who made use of this personal scope (subjective scope of choice) in his investigations herein before and will make use of it in his investigations herein after as alluded to by him in the foreword of the author's *ijtihād* deductions in matter of juristic law (vide the foreword by the author vol. 1, pt. 1, p. xlvi). For not all the precepts the author has presented in this book adopted or sought guidance from, are the outcome of his *ijtihād.* In fact, on the contrary, in some matters he has presented precepts which do not agree with his *ijtihād* as long as they express other *ijtihād's* deductions in matter of juristic law view points bearing the Islamic character and the *shar'ī* stamp.

In this connection I would like to state emphatically that the use of this subjective scope and the bestowal of the right of the choice to practice within the general framework of the *ijtihād* in respect of the common law of Islam (*sharī'ah*) constitutes a necessary condition on the technical side for the process of the discovery of this book is engaged in attempting and not merely a permitted thing or a kind of easy going and lazy aversion to the bearing of the burdens of rigours of the task of the *ijtihād* in respect of the precepts of Islamic law inasmuch as under certain circumstances the discovery of the Islamic theory and the fundamental doctrinal principles concerning the science of economy at

one (welded into one whole) comprehensively completely, consonantly, homogenously with their upper structure and their legislative particulars and their juristic ramifications, is impossible except on the basis of the subjective scope of choice.

The author says this as a result of the personal experience he had lived through during the period of his preparing this book. Perhaps it is necessary to make it quite clear here in order to show one of the difficulties I had mostly to undergo in my search in respect of economics of Islam and the manner in which I overcome it by the use of the above stated personal (subjective) scope (of choice) which gave me the right of its use.

It is agreed on all hands among the present day Muslims that the portion of the precepts of the law of Islam which has been kept preserved with its clarity, its need and its character of finality, notwithstanding these long centuries which separate us from the (early) law making age of Islam, is very small. Surely from among the body of the precepts we find in the juristic book, those of the class which enjoys the quality of absolute finality does not exceed five per cent.

Why is it so clear? The precepts of Islam are derived from the Holy Book and the *sunnah* of the Holy Prophet i.e. from the legal text. If so, for the soundness everyone of these texts with the exception of the Qur'ānic texts and a small body of the texts of the *sunan* (pl. of *sunnah*) established by *tawātur* i.e. continuity. We have to rely upon the transmission of one of its transmitters or the *muḥaddithīn* (traditionists). Now howsoever carefully we may scrutinize the account about the transmitter and the extent of his trustworthiness and faithfulness as to his transmission, as long as we are made acquainted about the extent of the integrity and the faithfulness of the transmitters historically and not in a direct .manner and so long as there is a likelihood that the faithful transmitter, being fallible, may have misconstructed the text and transmitted it to us obliquely especially in circumstances in which the text reach our hands only after going around of passing through the hand of a number of transmitters, each transmitter, in his turn handing it down to the next till it reached us at the end of the long journey, we cannot be sure of the soundness of the text in an absolutely decisive manner. But even when we have made our-selves sure of the soundness of the text and of its having originated from the Prophet or Imām. Yet we cannot comprehend the same except the way we are living today and are unable

to assimilate its atmosphere and conditions and to penetrate its milieu which can throw light on it. On setting out the text with other legislative text to reconcile it with them, too, we are likely to make mistake in our mode of reconciliation and give preference to this or that text while that text may be sounder than it — nay even there might be existing an exception in yet another text and the exception may not have reach our ears, or we might have paid no heed to it during the course of our *ijtihād* and so may have adopted the former text ignoring the text containing the exception which explains it and particularizes it.

From this it follows that *ijtihād* which is a complex and complicated process. Doubts and misgivings confront it on every side. Whatever conclusion might have been arrived by it, the opinion of the *mujtahid* who draws it plays the part of a deciding factor in it. As such its soundness in fact cannot be invariably settled inasmuch as it is probable that the *mujtahid* may have made a mistake in reaching its conclusion on account of the unsoundness of the text. In fact, even though it may have appeared sound to him, or on account of his misconstruction of the meaning of the text or on account of the error in the way of his reconciliation of it with all (the rest of) the texts or on account of his non-inclusion of some of the texts having significant bearings on the subject matter, his having omitted them or some other texts corroded by ages.

This does not mean, in fact, that the process of *ijtihād is* invalid or disallowed. Indeed in spite of the fact that it is hedged in by doubts and misgivings, Islam has allowed its practice and has fixed for the *mujtahid* the extent of the limit to which he can rely upon his presumptive opinion within the rules formally expounded in by the science of the principles of law *uṣūlu 'l-fiqh* — jurisprudence. And there is no blame if he relies upon his opinion within permitted limits whether he be right or wrong.

In the light of this it is cogent and expected to find with every *mujtahid* a collection of errors and contrary to the reality of Islamic legislation though of course he cannot help it. So also it is cogent for the reality of Islamic legislation to be apportioned hither and thither in the body of the questions which (juristic matters) treats them due to difference of opinion among *mujtahids* as this *mujtahid* may be wrong in a matter and right in another, and the other *mujtahid,* vice versa.

In the presence of this fact, the pursuant comes into possession of

the process of the discovery only when he proceeds in his discovery from the precepts established by a specific presumptive *ijtihād* in order to go beyond them to what is profounder and more comprehensive to the Islamic theories and the Islamic doctrine of economic.

But it is incumbent upon us to pose a question. Would the *ijtihād* of every *mujtahid* — the precepts he has gathered up and collected in a body — necessarily reflect to us a perfect economic doctrine and bases consolidated and consonant with the structure of those precepts and their nature?

Our reply to this question would be in the negative for the *ijtihād* on which the deduction of those precepts is based, is exposed to terror. As long as such is the case, it is likely for the *ijtihād* of a *mujtahid* to add a foreign element to the Islamic reality. It is likely that *a mujtahid* may have been mistaken in his deduction or may have failed to find an Islamic legislative element having not succeeded to have lighted upon it and the texts he was pursuing or the body of the precepts to which his *ijtihād* has led, may have become contradictory for this or that reason. It becomes difficult in such a case to attain to a perfect conceptual balance to unify them or to a comprehensive doctrinal explanation consolidating them all together into one whole unit.

It is on account of this that we should make a distinction between the Islamic legislative reality which the Prophet had enunciated and the form of it as depicted by a particular *mujtahid* through his pursuance of the texts. However we believe that the reality of Islamic legislation in the fields of economics is neither produced extempore nor is born of views separated and isolated from each other, on the contrary the Islamic reality

in these fields is built upon a unified base and common balance of conceptions. It emerges from the theories and generalities of Islam in the affairs of economic life.

It is our belief in this which makes us consider the precepts as the upper structure which should be crossed over to what is profounder and more comprehensive and step down it to the bases on which it is built up and which expresses their generalities in their elaborated details and ramifications without contradiction or protrusion. Were it not for our faith in that the precepts of the

sharī'ah are built upon unified fundamental principles there would have been no justifiable reason for the pursuance of the process of a discovery of the economic doctrine.

All this is true as concerns the Islamic legislative reality, but concerning this or that of the *ijtihāds* of the *mujtahidīn* it is not necessary that the precepts which that *ijtihād* has formulated reflect a complete economic doctrine or a comprehensive theoretical basis of it as long as it is possible to add a foreign element or miss a genuine element on account of the *mujtahid's* mistake.

And a single mistake in respect of the body of the precepts is sure to lead to the turning of the truths in the process of the discovery upside down and subsequently to the impossibility of attaining to the economic doctrine by way of those precepts.

It is because of this that the pursuer of the process of the discovery of the economic doctrine is faced with a trying ordeal. It is the ordeal between his capacity as a discoverer of the economic doctrine and his capacity as *a mujtahid* deducing the *aḥkām* (the prescription of the laws). This would be the case when we take it for granted that the body of the *ijtihād* to which he is led by his personal *ijtihād, is* unable to discover the economic doctrine. The pursuer under this circumstances, in his capacity as *a mujtahid* concerned with the deducing of those *aḥkām, is* driven by the nature of his *ijtihād* to the choice of the *aḥkām* to which his *ijtihād* has led in order to set out therefrom to his discovery of the economic doctrine.

But in his capacity as a discoverer of the doctrine (of the economics) it is incumbent upon him to choose well-combined body of the *aḥkām,* harmonious in its directions and its theoretical significances to be able to discover the doctrine on its basis. But when he does not come across such a well combined body of the *aḥkām* to which his personal *ijtihād* has led, he finds himself obliged to choose another point of departure appropriate for the process of discovery.

Let us give a more clearly concrete form to the difficulty in the following example.

A mujtahid observed the texts to connect ownership of natural raw materials (wealths) with work and labour and to disavow their appropriation in any other way except work or labour. He found a

single exception to these texts in a text avowing in some of the contexts: appropriation in another way than work.

To, this *mujtahid,* the deductions of the texts and their contributions — according to him — will reveal a quandary of a lack of coordination. And the source of this lack of coordination is the existence of the text of the exception. But for the (excepting) text, he would have been able to discover on the basis of the body of the other texts: that the ownership in Islam is established on the basis of work. Faced with such a quandary — in such a predicament what is the *mujtahid* to do, how is he to get over this contradiction between his two capacities, his capacity as *a mujtahid* concerned . . . the precepts of the Islamic law and in his capacity as a discoverer?

The *mujtahid* who is faced with this contradiction has to put up with two usual explanations for disturbance and the lack of combination between *aḥkām* to which his *ijtihād* leads him.

One of these two explanations is: that a certain text he pursued for constance the text of the exception we have supposed by way of an illustration is unsound notwithstanding the fact of its satisfying the conditions which any but in which they are satisfied is enjoined by Islam to be complied with. The unsoundness of some of the texts introduces a foreign element in the body of the *aḥkām* combined together by his *ijtihād.* It subsequently leads to the repugnance between those *aḥkām* at the theoretical level and in the process of the discovery.

The other explanation is that repugnance tangibly felt between the constiments of the collection is superficial. It has only resulted from the pursuer's feeling of inability to find the secret of the unity between those constituents and their joint (common) theoretical explanation.

Here the position of the *mujtahid* in his capacity as one who infers the precept of the law of Islam is distinct from his position (stand-point) in his capacity as one pursuing the process of discovery of the economic doctrine in Islam. He in his capacity of one drawing the *aḥkām,* cannot forgo his particular act according to the *aḥkām* to which his *ijtihād* directs him even though these *aḥkām* appear to be mentally repugnant at the theoretical level so long as it is likely this repugnance arises from his inability to get at the nestling place of their secret or their doctrinal basis. But his

adherence to these *aḥkām* does not mean their finality. On the contrary they are the deduction of his presumptive opinion (*ẓann*) *so* long as they are established on his presumptive *ijtihād* which justifies their adoption in despite of the possibility of error.

But when the jurist wishes to step over the domain of the jurist precepts, to the domain of jurist theories, and to pursue the process of the discovery of the economic doctrine in Islam, the nature of the process prescribes for him the kind of precepts he should start from and makes it imperative for the point of departure to be a collection of well combined and mutually consistent precepts. If he is able to find such a collection from the precepts his *ijtihād* draws together and to set out from it on the process of the discovery for the construction of the general basis of the Islamic economic, without undergoing the painful experience of contradiction or repugnance between the constituents of this collection, it will afford him a valuable opportunity to unite his person in his capacity as one drawing the *aḥkām* of *sharī'ah* with his person in his capacity as a discoverer of the theories.

But if he is not so fortunate as to have this opportunity afforded to him by it and if his *ijtihād* does not manage the business of helping him to a proper point of departure that in no way will affect his resolution to carry out the process or his faith in that a general will coordinated theoretical explanation of Islamic reality is possible and the only course upon the pursuer to follow in that case is to seek help from the precepts to which the *ijtihād* of *mujtahids* other than him are led. For in every *ijtihād* there is a collection of precept which differs to a great extent from the collections which consist of other *ijtihāds.* It would not be logical to expect the discovery of the doctrine of economic from behind each and every one of these collections. We believe in only the doctrine of Islamic economy established on the basis of the existing *aḥkām* of the *sharī'ah,* contained in these collections. So in case of the repugnance between the constituents of a collection, which the *ijtihād* of the pursuer has adopted, it is a duty imposed upon him in respect of the process of the discovery to remove the disturbing elements which lead to contradiction and replace them with such deductions and precepts from other *ijtihāds* as are more consistent with and more facilitating the process of discovery and to formulate a collection formed from various *ijtihāds* satisfying the need of the consistency in order to set out from it and come out at the end with

the discovery of the conceptual balance that collection formed from the *aḥkām* of *sharī'ah.*

The least that can be said in respect of this collection is this: that it will be in its entirety the truest and the veriest picture of the Islamic legislative reality and the possibility of its verity is not more far fetched than the possibility of the verity of any of the other picture with which the surface of the juristic *ijtihād* soil *is* replete; over and above this it bears its legal *sharī'ah* justification since it expresses the licit Islamic *ijtihāds* all of which revolve within the orbit of the Book and *sunnah* of the Prophet. On account of this it is possible for the Islamic society to choose it in the field *of* applied practice from among many of the *ijtihād* forms of *the sharī'ah* one of which must be chosen.

This is all that can be achieved by the process of the discovery of the Islamic economics, when the personal *ijtihād* of the pursuer of it is unable to formulate an appropriate point *of* departure for the purpose. However, this is all that we at the most need in this connection. But what more do we need after we discover an economic doctrine which enjoys no less a share than any other of the *ijtihād's* pictures of the veriest and most precise and exact possibility of a picture of it and in which all the justificatory factors of its connection with Islam are satisfied in the same of its being ascribed to a sufficient number of the some *mujtahids* and carrying with it the Islamic sanction of its practical application to the Islamic life.

Delusion of the Applied Existing Reality :

The economic doctrine of Islam entered in the life of the Muslim society in the age of prophethood and existed at the applied level of practice of the existing reality of the economic relations which obtained among the Muslims of those days. On account of this it becomes possible for us during our pursuit of the process of the discovery of the Islamic economy, to study and make search of it at the applied level just as it is possible for us to study and make search of it on the theoretical level; inasmuch as the applied practice defines the features and characteristics of the Islamic economic so just as the texts of theory define them in the fields of *sharī'ah.*

However the legislative texts of theory are more capable of

forming a picture of the doctrine then the applied existing reality inasmuch as the application of the legislative texts to a definite condition is not likely to be able to reflect a fat (great) content of that text nor is it likely to be able to visualize its complete social significance. The afflatus of applied practice and its conceptual contribution of the theory differs from the contribution of the texts themselves. This difference arises from the delusion of the practice for the senses of the pursuer of the process of discovery resulting from the practices being linked with specific objective conditions.

An instance of this delusion would be sufficient. To the pursuer (*mujtahid*) who intends to seek to know the nature of the Islamic economics from the practice (of it during the early period of Islam) the practice will reveal that the Islamic economics is capitalist (in nature), believes in the economic freedom and opens up a wide field in front of the private property and individual activity. This is what was held by some of the Muslim in all its explicit, when the individual members of the society which lived in the experimental age of the Islamic economic appeared to them as having a freehand, and experiencing no let or hindrance or any constrain or compulsion in the economic doings, enjoying the right of private ownership of any of the natural wealth it was possible for them to get possession of and the right of their investment of these wealth or their disposal of them. Capitalism is nothing more than this unrestrained freedom which the members of the early Islamic society were pursuing in their economic life.

Some of them add to it that to graft the Islamic economy upon non-capitalists constituents and to say that Islam is socialist in its economics or carries socialistic (communist) seeds within, it is not a fair thing to do on the part of the *mujtahid* in his capacity as a *mujtahid.* In doing so he is joining the procession of new thought which has begun to frown upon capitalism and to reject it and is preaching to develop Islam in a form made palatable in the measures of the new thought.

I neither deny that the individuals of the society in the age of prophethood carried on pursuing free activity and possessed economic freedom to a considerable extent. Nor do I deny that it reflected a capitalist face of Islamic economy, but this face which we sense when we look at some of the aspects of practice, we do not at all sense when we look at them during the study of the theory

on the theoretical level.

It is true that the individual who lived in the age of prophethood seems to us to be enjoying a great deal of freedom, which the pursuer of the *ijtihād* may at times be not able to distinguish from the freedoms of the capitalism, but this imaginary fancy is dissipated and fritters away when we turn practice to theory as to the legislative texts.

This discrepancy between the practice and theory not with-standing the fact that both of them express one of the alternative form of the other, was lying concealed in the conditions in which the man of the age of applied practice was living and the kind of power and ability he was possessing. The theoretical significance of the non-capitalism were hidden in the field of applied practice to a certain extent, in the degree to which man's power and ability over nature were weak. It shows its non-capitalist content conjointly and becomes especially manifest in the field of its genuine practice in Islam in the degree these powers increase and the abilities become capacious for whenever man's ability expended and his means to gain control over nature became, variegated, more spacious fields opened up before him for the wider operation, appropriation and exploitation of the natural resources the more manifest they became, the more explicit became the contradiction between the Islamic theory of economics and the capitalist theory of economics and its non-capitalist significance comes to light in the solutions formulated by Islam to meet the new problems coming into existence vis-à-vis the growing hold of man over nature.

Man of the age of applied practice, for instance, used to go to the salt-mine, or mine of some other thing, and extract as much of the mineral material as he wished without any probability from the theory which was prevalent or any objection therefrom, to his appropriation of that material as his private property. So what can this phenomenon reveal thereby in the field of practice when it is separated from the study of the juristic and legislative text in a general way? It can reveal only the rule of the economic freedom in the society to a degree in which it will resemble capitalist form of freedom as to the possession and of the property and its fruetification.

However, when we look at the theory through the text, we will find it will reveal a feeling contrary to the feeling that, the phenomenon in the

field of applied practice will reveal for the theory forbids the private possession of the salt or naptha mines, and does not give permission of the extraction of these material more than what individuals need of them. This is an explicitly clear contradiction of the capitalism which is affiliated to the principle of the institution of private property and opens up and ampler room for the acquisition of the sources of the natural mineral wealths and their capitalistic exploitation, with the intention of additional profit. So can anyone apply to an economic system which neither admit of the freedom of the possession of the mines of the salt and naphtha (petroleum products) nor of their increased extraction to the inconvenience of the others, and the depriving them of the right of their enjoying the usurfruct from these mines — yes can anyone apply to this system of economics the name of capitalist economics? Or can it give rise in our heart the feeling of its being a kind of capitalist doctrine of economic like the feeling which it give rise in the heart of those who made an approach to it through its applied practice?

In that case it behoves us to know that man of the age of applied practice, of freedom in the field of work and exploitation, — even the deriving for instance of the profit from the salt and petroleum mines, on account of the fact that he was not mostly able by the force of natural circumstances, and the low level of this means and their primitiveness, exploit it then outside the permissible limits on the part of the theory. He was not able, for instance, to extract from the mine huge quantities — like the huge quantities which are extracted nowadays for he was not equipped against nature as the man of our days are equipped. So he did not come in conflict in reality of his life, with the limit which was set to the quantity which it was permissible to extract for the simple reason that whenever he wished to extract, he was not able to extract with the primitive instruments at the utmost of his power a quantity which would be lessened to his disadvantage in other sharing with him the benefits of the mine. However, theory shows its effect vaciferantly and reflects its contradiction with the capitalist thinking when the man's power rises up, his capacity of carrying inroads upon nature grows and it becomes possible for a small number of men to work up and exploit the whole of the mine, and find a field in the well connected on the whole and open

world-markets for a great profits.

Likewise also we see altogether like this in the theory which does not permit an individual to take into his private possession, the natural wealth and raw materials like the wood of the forest except what he can hold or produce by his own labour directly. The men of the age of applied practice could not have had an explicitly clear sense of this theory so long as the work in that age was in a general way carried out on the basis of the exercise of direct labour and under its force. But when it becomes possible to extract and obtain a huge quantity from the mines, by reason of instruments and machinery of extraction, and the possession of a quantity of cash sufficient to defray the wages of the employed labourers, when all this is completed the ability of that individual becomes natural (it becomes within the reach of the ability of that individual) to rely upon employed labour to extract and acquire possession of the raw material from the natural sources. This is what actually took place in the living reality when the employed labour and capitalist production became the basis of the extraction and the acquisition of that material. It is only then that the contradiction between the Islamic economic theory and the capitalist economic theories become manifest itself in a glaringly clear manner and it will appear to every pursuer unless he were blind, that the theory of economic is not of capitalist nature, else which is that capitalist theory which would war with the capitalist mode of the acquisition of the natural wealth.

Thus it is that we find the man of the age of capitalists production who possesses instruments for cutting a huge quantity of forest wood and has in his keeping cash to induce the unemployed labour to work with him and to employ these instruments for the cutting of the wood and who is found to have at his command ample means of transporting these quantities to the selling houses and the markets waiting for it to consume up all of it.

If this man, were to live the Islamic life, he would become aware of the extent of the contradiction between Islamic economic theory as to the principle of economic freedom and the capitalist theory of economic freedom when he will see that the Islamic theory would not sanction a capitalist project of cutting of wood of the forest and to sell it at high price.

So the Islamic theory of economics does not manifest the whole of its face during the age of its applied practice it existed in and the

man of the age of the applied practice did not take in the whole of its face in the problems he met with and the economic operation he was carrying out. Its complete face shows itself only through the texts in their definitive general categories (shapes).

However those who hold the belief that Islam is capitalist and believes in the economic freedom, have some excuse for holding this belief. They have obtained the inspiration of their feeling from the study of the man of the age of the applied practice and from the degree of the freedom that man experienced. But this feeling is delusory-misleading for the afflatus of practice cannot be substitute for the contribution from the legislative and juristic texts and those reveal a non-capitalist content.

In fact, the firm belief in the existence of the non-capitalist content of the theory of economics in Islam in the light of what we have stated is not the outcome of development nor a grafting nor a new personal contribution to the theory as those who believe that the Islamic economics is capitalistic say, they who charge the tendency towards interpretation of Islamic economics with non-capitalism and say about it that it is a hypocritic's trend trying to introduce a foreign element in Islam, by way of insincere adulatory commendation to advance the cause of the new thought demin on a (to death) capitalism for its doctrine of private property and economic freedom.

We possess historical proof for the repudiation of this charge and the confirmation of the sincerity of the tendency of the interpretations of Islamic economics with non-capitalism and this proof is the juristic and legislative texts which we find from the old resources the history of which goes back to hundreds of years before the modern world and the recent socialism came into existence with all of their doctrines and nations and ideologies.

But when we bring to clear light the non-capitalist face of Islamic economy which has been presented in this book, and affirm a clear line of demarcation between it and the economic doctrine of capitalism, we do not mean thereby to confer upon Islamic economy the stamp of socialism and include it in the prome (matures) of socialist doctrines as the opposition of the capitalism inasmuch as the opposition of the polarization existing between capitalism and socialism admits the postulation of a third pole in this opposition and permits especially the

Islamic economics to occupy this central position of the third pole when it is proved to be qualified for this polarization in the contest of the opposition by virtue of its characteristic features and domination. The opposition permits the admission of a third pole in the field only because socialism is not merely the negation of capitalism so that in order to be socialism, it will suffice to deny capitalism, but also it is a positive doctrine. It has its own ideas, conceptions and theories and it is not that these ideas, conceptions and theories be right when capitalism is false. Nor it is necessary for Islam to be capitalist if it is not socialist, for Islamic economic is not in its roots in its independence and in the objectivity of its search, such, that when we pursue the process of its discovery, we can confine our process within the orbit of the specific opposition between the capitalism and socialism, and incorporate Islamic economic in either of these two poles so that we can describe it as socialistic if it is not capitalistic and describe it as capitalistic if it is not socialistic.

The originality of Islamic economics will become illuminatively clear in the following discussion and its opposition to socialism as to its attritende towards its private property and the senctity of property and its admission within the limit of its being drawn from general theory — of the legality of the earnings without labour from the private holding of a certain source of production, while socialism does not consider as lawful any earning derived from private holding of a source of production without directly putting in of labour. This in fact is the contradiction between the Islamic theory and socialist theory of economics and it is only from this starting paint that all the manifestations of contradictions spring between them. This will become more and more clear as we will set to work out in detail.

CHAPTER TWO

THE THEORY OF DISTRIBUTION BEFORE PRODUCTION

1 - THE LEGAL PRECEPTS (***AḤKĀM***)

THE LEGAL PRECEPTS (*AḤKĀM*)

Distribution of (Public) Wealth on Two Stages:[1]

The distribution of the wealth is accomplished at two stages. One of them is, the distribution of the material sources of production; and the other is, the distribution of productive wealth.

The sources of production are; land, raw materials, tools and machinery requisite for the production of heterogeneous goods and commodity for all these take part in the agricultural or industrial production or in the production of both.

As for the productive wealth it is the commodity (capital goods and fixed assets) effected by the natural human work with results from the process of combining those material sources of production.

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[1] In this section we will use several technical terms. It is therefore necessary to define them at the very beginnings.

a. **The principle of diverse forms of ownership:** It is an Islamic principle of ownership. The principle believes it in three of its forms. Private-ownership, state-ownership and public-ownership.

b. **State-ownership:** It imports the right of taking possession of the property belonging to the divine function (office) of the Islamic state which the Prophet or the Imam exercises, such as his taking possession of the mines according to some juristic texts.

Hence there is the primary wealth. It is the sources of production. And the secondary wealth, it is the commodity and the (capital) goods man succeeds in effecting by way of employing these sources.

The talk concerning distribution should comprehend both these wealth, the mother wealth and daughter wealth, i.e. the sources of production and the productive goods.

Evidently the distribution of basic sources of production precedes the process of production itself, for the men carry out only the productive activity in correspondence with the method or way in which the society distributes the sources of production. Hence the sources of production before production. As for the distribution of the productive wealth, it is connected with the process of production and depends upon it, for it handles the products from which results the production.

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c. **Public-ownership:** It imports the right of taking possession of a particular property belonging to the people or nation as a whole.

d. **Ownership of the *ummah* (nation):** It is a kind of public-ownership and imports the right of ownership belonging to the entire Islamic nation in respect of a property or its historical extension such as the ownership of Islamic nation in respect of a property acquired by conquest in religious war (*jihād*).

e. **People's ownership:** It is also a species of public-ownership. We will apply this term to every property which an individual is not permitted to take exclusive possession of, and own it as his private property, while all people are permitted its usufruct that is to avail or make use of it to their own purpose and derive benefit from it. Any property which is of this nature we will apply to it the term (a property under) the common ownership of the people. The term ''the common ownership of the people'' is applied in the parlance of this book to import a negative thing and that is not giving the permission to an individual or a specific side portion to take exclusive possession of the property; and a positive thing; it is, the permission of its usufruct to all of the people in respect of seas and natural streams.

f. **Common-ownership:** We will apply the term common-ownership to what contains together both of the fields: field of state-ownership and the fields of the two preceding public-ownerships, contrast to what expresses the contrast to the private-ownership.

However, when the capitalist economists study the problems of distribution with the capitalist frame-work (mould) do not look at the entire wealth of the society and its sources of production, but study (the problems) of the distribution of the produced wealth only, that is the national revenue and not the entire national wealth, and by national revenue they mean, the entire capital goods and produced services, or in more explicit words, the cash value of the entire produced wealth produced during the course of the year, for instance. Therefore, a discussion of the distribution in the political economy is the discussion of a distribution of this cash value among the factors participating in the production of it and specify the share of each factor such as the share of capital, of the land, of the sponsor and of the labourer ... in the shape of interest, revenue, profit and wages.

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g. **Private-ownership:** We mean by it when we apply it in this the appropriation of an individual or a limited orbit of the portion of a definite property and an appropriation which gives him principally the right of deprive any person other than himself from the enjoyment of its usufruct in any shape or form unless there existed a need or an exceptional circumstance, like the man fetching a load of wood from the forest or a quantity of water he draws with his hand from the river.

h. **Private-right:** We mean by it when we will apply it in this discussion a degree of the individual's appropriation of the property. It differs from the degree in which the ownership express. Its appropriation in its analytical and legislative sense. Ownership is a d[i]rect appropriation of the property. The right is an appropriation, a resultant of another appropriation and subject to it for its continuance and on the legal side ownership of a property gives the owner of the property the right to deprive another person the enjoyment of the usufruct from his property while the private right does not lead to this result. Others can enjoy the usufruct of the property in the manner and form as regulated by the *sharī'ah* .

i. ***Public property free to all* (*Ibāḥatu 'l-'āmmah*):** It is a legal precept in accordance with which an individual is allowed to enjoy the usufruct of the property and to take it in his possession as his exclusively private property. The property in respect of which it is proved that this term can be applied to it is termed public property free to all like the birds in the air and the fish in the sea.

On account of this it is natural that the discussions of production precede the discussion of distribution, so long as it means the distribution of the cash value of the productive goods among the factors and the sources of the production ... On this basis, we find the (capitalist) political economy considers the production the first of the subject matters of discussion, so it studies the problem of the production first and then takes up the study of the problems of distribution.

Islam, however, treats the problems of distribution on a wider and more comprehensive scale for it does not confine itself to the dealing with the distribution of the productive wealth and to sheer clear of the deeper side of it, I mean, the distribution of the sources of the production as the doctrinal capitalism (the applied capitalist system of economy) has done when it abandoned the sources of the production forever to the control and authority of the strongest under the motto of economic freedom (the doctrine of laissez-faire) which serves the interest of the strongest and prepares the way for the monopolist exploitation of nature and whatsoever of the material resources it contains and their utilities. On the contrary, Islam interfered in a positive manner in the distribution of nature and whatsoever of the natural resources contained therein, and divided them into a number of categories, every category had the stamp mark of its distribution, such as private-ownership or public-ownership or state ownership or a public property free to all (*ibāḥatu 'l-'āmmah*). It formulated for it a code of rules, likewise it formulated in line with it rules on the basis of which the distribution of the produced wealth is to be carried out.

On account of this the distribution became the starting point or first stage in the Islamic system of economy instead of production as is done in the traditional political economy for the very distribution of the sources takes place before the operation of the production and every organization which is connected with the operation of production itself is reduced to the second stage.

We shall now begin with determining the position or stand-point Islam takes from the distribution of the basic sources the distribution of the natural wealth it contains.

The Original Source of Production:

But before we begin with details according to which the distribution of the basic sources is effected, it is necessary that we specify these sources.

Now in the political economy the sources of production mentioned as a rule are:

i. Nature.
ii. Capital.
iii. Labour and it includes the organization by which an organizer sets up to execute the project (plan).

But when we discuss about the distribution of the sources of production and the form of their ownership in Islam we must eliminate two sources from our discourse. These are capital and labour.

As for capital, it is a produced wealth and not an original source of production for every finished goods materialized by human labour and gives its share in producing afresh more wealth. Now the machinery which produces textile goods is not a pure natural wealth but only a natural material given shape to by human labour in a previous process of production. We are at present only discussing about the details which regulate the distribution before production, that is, the distribution of the wealth which is a gift of God to human society before it has set out to carry out its productive economic activity and productive work on it. Now as long as capital is begotten of a previous act of production, its distribution will be included in the discussion of the produced wealth such as the commodity of consumption and the commodity of production.

As for labour, it is an abstract and an immaterial element not a material factor so as to be included in the orbit of public or private proprietorship.

On this basis nature alone from among the other sources could be at present the subject matter of our study for it rep-resents a material ingredient which is prior to production.

Difference of Doctrinal Stand-points Concerning Distribution of the Natural Sources of Wealth:

Islam differs from capitalism and Marxism in the particulars and the details in its handling of the matter of the distribution of natural sources of wealth.

Capitalism connect the ownership of the natural sources of wealth and the way of their distribution with the individuals of the society and the energy and strength and abilities and skill they expand, within the orbit of the ample economic freedom allowed to all of them, in the way of acquiring the largest possible share from those sources. Thus it permits every individual to take into his possession exclusively what luck helps him to take what good fortune enables him to succeed in obtaining out of the riches of nature and himself.

As for Marxism it sees in accordance with its general methodology of the interpretation of history that the owner-ship of the sources of production is directly connected with the dominant form of production so it is every form of production that determines at its historical stage — the mode of distribution of the material sources of production and the class of individuals who should own them. This mode of production remains in continuation until history enters another stage and production begins to assume new form. This new form of production is unable to make headway with the preceding system of distribution. That system blocks its way to growth and development till the old system of distribution is torn to pieces after a butter conflict with the old system of distribution and a new form of distribution of the sources of production cover into existence realises the necessary of social conditions for the new production which help to growth on development on the basis of the sources of production which is in accordance with the service of production since it is always established on the needs of its growth and evolutions.

So at the historical stage of agricultural production the form of production necessarily imposes the establishment of distribution of the sources of production on the feudalist basis while the historical stage of technological industrial production imposed redistribution domare of the distribution on the basis of capitalist ownership of all the sources of production and at a definite stage of the growth of the technological industrial production the substitution of the

capitalist class by the proletariat class and the reshifting of the distribution on this basis become inevitable.

But Islam does not agree with capitalism about its concept of distribution before production nor with Marxism. It does not believe in the capitalist concept of unfettered economic freedom (laissez-faire) as we have come across in the discussion with capitalism.[1] Likewise it does not agree as to the inevitable connection which Marxism sets up between ownership of the sources of production and the prevailing form of production as we observed in our discussion about our economic system, its chief land mark.[2] It therefore limits the free ownership by the individual as regards the sources of production and separates the distribution of those sources from the forms of production because the problem in the eyes of Islam is not a problem of the instrument (means) of production demanding a system of distribution favourable to the course of its progress and growth so that distribution changes every time the need of production requires change a new and its growth depends upon new distribution. But it is a human problem Man has needs and desires, which should be satisfied in a form which protects his humanity and develops it. Man remains a man with his needs and his desires whether he tills the land with his hands or employ electric or steam power of that purpose. There-fore, the distribution of the sources for production is required to be effected in such a shape or form which will guarantee the satisfaction of these wants and desires within a human frame which enables man to give growth to his existence and his humanity in accordance with that common frame.

Every man — especially in his capacity as a private person has needs, wants and desires which needs must be satisfied. Islam has facilitated individuals to satisfy these needs by way of the institution of private ownership which Islam has established and has formulated its grounds and conditions.

When relations between men are established and the society comes into existence, there would be general needs of this society,

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[1] *Iqtiṣādunā* (Engl. transl.), vol. 1, pt. 2, pp. 3 — 47.

[2] *ibid.,* pp. 110 onwards.

too. Islam has guaranteed the gratification of these needs and wants of the society by its institution of common ownership of certain of the sources of production.

Many individuals are not able to satisfy their wants by way of private ownership, these people will suffer severe distress being deprived of the satisfaction of their wants, general social equilibrium will be disturbed thereby. Here Islam sets up a third form of the institution of ownership — state-ownership so that the head of the state (*waliyyu 'l-amr*) may maintain the equilibrium.

In this way the distribution of the natural sources of production are effected by dividing these sources into fields of private-ownership, public or common ownership and state-ownership.

Natural Sources of Production:

We can divide the sources of production in the realm of Islam (Islamic economics) into several categories:

i) The land: It is the most important of the natural wealths without which it is well-nigh impossible for man to carry on any kind or nature of production.

ii) The primary substances contained in the dry land (mineral wealth) such as coal, sulphur, petrol, gold, iron etc.

iii) Natural streams, one of the essential conditions of man's material life, which plays an important part in the agricultural productions and communications.

iv) The remaining of the natural wealth: They consist of the contents of the sea extracted therefrom by diving or in some other way, like pearls, and corals, and the natural wealth which live on the surface of the earth such as animals and vegetables, wealth widespread in the atmosphere such as birds and oxygen, or natural sources, hidden in the sides of the earth, like water-falls which conceals within them electric energy which can be transmitted through wires to any points and such other stocks of natural wealth.

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LAND

Sharīʻah has categorized the lands which were annexed to the *Dāru'l--Islām* (abode of Islam) into three forms of owner-ship.

In respect of one kind of these lands it has decreed the form of public-ownership, in respect of another kind of them the form of state-ownership and for the third kind of them it has sanctioned the form of private ownership.

The *Sharīʻah* in these legislative of it, ties the form of the ownership with the occasion of these land's coming into the possession of Islam and the circumstances which ruled over it when it became Islamic land. The nature of ownership of land in Iraq differs from the nature of ownership in Indonesia because these countries differ as to the manner in which they were annexed to and became the territories of *Dāru'l-Islām*. Likewise in Iraq itself its lands differed with each other in regard of the class of ownership on account of the situation prevailing over this or that (of its) land at the time when Iraq inaugurated its Islamic life.

In order to penetrate into the circumstances we will divide the Islamic lands into classes or categories and then speak about each one of the classes and about the nature of its ownership.

I. THE LAND WHICH BECAME ISLAMIC BY CONQUEST

The land which became Islamic by conquest is that land which fell to the *Dāru 'l-Islām* as a result of the *jihād* in the cause of Islamic mission such as the land of Iraq, Egypt, Iran, Syria and many other component parts of the Islamic world.

The circumstances of all these lands was not identically the same at the time of their Islamic conquest. There existed in them some land which were already tilled land in the tilling of which earnest human endeavours were embodied expended for the purpose or rewarding the land fruitful for tillage or for some other purpose of human utility. There were some lands which on the day of the conquest, were naturally cultivated without any direct intervention on the part of man like wood-land thickets teeming with trees and which received their richness from nature and not from men. There were also lands which were left as neglected lands towards which neither the human hand of tilling was extended upto the period of the conquest nor the rearing hand of nature. Hence in the customary juristic parlance they were called dead lands.

So these were the three kinds of lands differing in their circumstances according to the time of their ingress into Islamic history. Islam has ordained public ownership in respect of some these kinds and state-ownership in respect of some of other kinds as we shall see.

A LAND CULTIVATED BY HUMAN HAND AT THE TIME OF THE CONQUEST

If the land at the time of its connection a part of the history of Islam was the land cultivated by human hand, and was in the possession of man and within the orbit of his fructification of its then that was a common property of the whole of the Muslim community of the then generation of the Muslims and all the future generations of the Muslims, that is, it is the Muslim community, with its historical prolongation each general of Muslim at every period of history which is the owner of it without any discrimination between one Muslim and another and an individual is disallowed by Islamic

law to acquire the right of inalienable permanent proprietorship and take it into his possession as his private property.

The great research scholar Najafī has quoted in his *al-Jawāhir* from a number of juristic resource-books such as *Ghunya, al-Khilāf* and *at-Tadhkirah* that there is a consensus of opinion among the Imāmiyyah jurists about this ruling. They are of one accord about the application of the principle of public-ownership to the land which was a cultivated land at the time of its conquest by Islam. Likewise al-Māwardī quotes from Imam Mālik the saying that the conquered land shall be a trust property for the Muslim from the day it is conquered without there being any need for the *waliyyu 'l-amr* (the head of the Muslim state) to conduct the text of trust in respect of it. This is another meaning of the term common-ownership of the nation.

Proofs and Demonstrations of the Public-Ownership :

The texts of Canon Law — *sharī'ah* — and their application are quite explicit about the establishment of the principle of public-ownership in respect of this kind of land as is evident from the following reports of traditions:

1- In a tradition from al-Ḥalabī it is stated that he asked Imām Ja'afar ibn Muḥammad as-Ṣādiq (a.s.) about the *as-Sawād* (black) land (i.e. Iraq) ''What is its status?'' The Imām replied ''It belongs to the entire generation of Muslims of today and to the Muslims who will enter the fold of Islam after to this day and those not yet born''.

2- In a tradition from Abū Rabī' ash-Shāmī, (it is stated) that Imām Ja'far (a.s.) said ''Do not purchase the land of as-Sawād (Iraq) for it is *fay'*[1] for the Muslims.''

The term *ardu 's-sawād* in the usage of that time, was used to describe a component part of the land of Iraq which the Muslims had conquered in the Holy War (*jihād*). But the Muslims applied this term to the Iraqian land only because when they emerged from their land in the Island of Arabia by carrying the standard of their divine

[1] Here the meaning of the word ''*fay'* '' is that Allāh has granted the land (as-Sawād) to all Muslims. Therefore, all have right on this land and no one, as an individual, can take possession of the same. (*ed*)

mission to the world and arrived in Iraq the greenery and verdure of the fields and trees of Iraq appeared to them verging on darkness they termed it *as-sawād* for they are used to combine both the term *al-khaḍrah* (green) verdure and *as-sawād.*

3- In report of the tradition by Ḥammād: That Imām Mūsā ibn Ja'far (a.s.) said the land which is taken by force is a trust property left in the hand of one who cultivates and revives it and *kharāj* (land tax) is levied upon those who hold these lands according to their capacity.

By this is meant that the head of the state left the lands which were conquered by force (of arms) in the hand of those individuals of the Muslim society who cultivate it and raise crop upon it and demand from them land tax in respect of land because of the land being a public property of the Islamic nation as a whole. When the tillers of the land derive its usufruct by raising crop on it they must pay to the nation the price of the benefit they derive thereby. It is this price or rent to which term the term *kharāj* is applied in the above stated tradition.

4- It is stated in a tradition: That Abū Bardah asked Imām Ja'far (a.s.) about the purchasing of a taxed land. The Imām (a.s.) replied ''But who will sell the land while it is the land of Muslims (property of the entire Islamic community)''.

Arḍu 'l-kharāj (taxed land) is a juristic term in respect of the land we are talking about for the land which is acquired by conquest and is a tilled land i.e. it is already a land on which crop is being raised when it is acquired; is the land on which *kharāj is* levied as stated in the earlier tradition we have come by and is on that account termed a taxed-land.

5- In a tradition reported by Aḥmad ibn Muḥammad ibn Abī Naṣr, from Imām 'Alī ibn Mūsā ar-Riḍā (a.s.) in which he explained the kinds of land and the Islamic ordinances in respect of them says that ''Whatever is taken by sword, that belongs to the Imām to give (guarantee) it to anyone he deems fit.''

6- In the book *Tārīkhu 'l-futūhī 'l-Islamiyyah* it is stated that the Second Caliph was sought for the distribution of the conquered land among the soldiers of war of the Islamic army, on the basis of the principle of private ownership, he consulted the companions of

the Prophet. ‘Alī (a.s.) advised against it on the basis of that principle. Ma‘ādh ibn Jabal said: ‘‘If you distribute it will place great revenue in the hands of the nation. Then they will die and will be thus eliminated and the revenue will become the property of a single man or a single woman. Then will come a people who will take their place joining the fold of Islam, but they will find nothing. So decide this matter taking into consideration the fact of making ample-provision for the last as for the first.’’ So he decided it to be the public property. ‘‘See what the soldiers have brought to you from among animals and unareable property distribute the same among the Muslims who were present, and leave out the land (streams) to their respective possessors, so that these be the gift of all Muslims. If we distribute these among those present then there will be nothing left for those who come after them, i.e. the succeeding generations.’’ So ‘Umar wrote to Sa‘d ibn Abī Waqqās: ‘‘I have received your letter in which you wrote that people are asking you to distribute the spoils of the war and what Allāh has granted them by way of *fay’*. I order you to see what the army urge upon from as the what of the spoils they have brought in, to distribute among the Muslims who have been present in the war only moveable property (lit. *kara‘* = horses, weapons, etc. and *māl* moveable property) and leave the rivers and lands for the *‘ummāl* those who work on them so that these be as gifts to the Muslims. If we distribute these among those who are living present nothing will be left for those who will come after them.’’

A part of jurists explaining the measures of the Second Caliph hold the opinion saying the *sawād* (fertile) land be-longs to its owners as has been stated in the book *Kitābu ’l-amwāl* by Abū ‘Ubaydah that when he returned the land to them, it became theirs by giving them permanent proprietary right in the land and the right of *kharāj* accruing from it was assigned to the Muslims — so the public ownership (of the land) was connected with the *kharāj* accruing from the land and not with the permanent proprietary right in the land.

Some of the contemporary Muslims who have accepted this explanation say that this is nationalizing of the *kharāj* and not the land.

But the fact that the measures were taken by ‘Umar on the basis of the belief in the principle of public ownership and his application to it the right of the permanent proprietorship in the land is quite clear and that his leaving the land in the hands of those who hold it in their possession, was not an acknowledgement and recognition, on his part, of their right to it as their exclusive private property. He gave it to them by a contract of lease (*muzāra‘ah*) or hire (*ijārah*) *so* as to utilize (lit. work) the land for productive purpose and enjoy its usufructs in consideration of the *kharāj* to be paid by them (lit. they offer).

The proof of it is what is of an anecdote a mentioned in the book *Kitābu ’l-amwāl* by Abū ‘Ubaydah that ‘Utbah ibn Farqad purchased a land on the bank of the river Euphrates. He proposed to start the preparation of land for cultivation. He mentioned this fact to ‘Umar. Thereupon ‘Umar inquired of him from whom he had purchased it. His reply to it was that he had purchased it from its owner. So when the *muhājirs* and *anṣār* assembled before ‘Umar. ‘Umar asked ‘Utbah if he had purchased anything from these people. ‘Utbah replied in the negative and ‘Umar then ordered him to return it to the person from whom he had purchased it and to. take back his money from that person.

7- There is a tradition from Abū ‘Awn ath-Thaqafī mentioned in the *Kitābu ’l-amwāl* that he said that a villager embraced Islam during the rule of ‘Alī (a.s.). The Imām thereupon stood up and said ‘‘As for you there is no *jizyah* on you and as for your land it now belongs to us’’.

8- It is stated in *al-Bukhārī* on the authority of ‘Abdullah that the Prophet gave the Jews the land of Khaybar to work on the land and cultivate it. They had the half of what they raised on it. This tradition in spite of the presence of other traditions in conflict with it enunciates that the Prophet had applied that principle of public ownership to the land of Khaybar as a land conquered in *jihād,* for, had the Prophet distributed the land specifically among the warriors who took part or were present at the battle, under the principle of private ownership instead of applying the principle of public ownership he would not have entered into a lease-contract for its cultivation with the Jews in his capacity as a head of the state.

Therefore, his having entered in such a contract in his capacity as the head of the state indicates the matter of its disposal was entrusted to the state and not to the individuals who had acquired it by way of the booty of war.

Some Muslim thinkers state that the event of dealing with the conquered land of Khaybar in this way furnishes a decisive proof of the fact that the state has the right to take into its possession the goods and properties of the individuals — a matter which establishes the validity of nationalization in Islam for the general rule is that *fay'* should be distributed among the warriors present at the battle. Therefore to reserve it for the state instead of its distribution among those entitled to have it vests in the state the right to lay its hand on the rights and claims of its people when it thinks doing so is needed in the best interest and the happiness of the people as a whole so it is valid for the state to have the right of nationalizing private properties.

But the fact is that the states reservation to itself of the conquered lands, and its non-distribution among the warriors was not an application of the principle of nationalization but an application of the principle of public-ownership. Private ownership was not made a law in respect of the conquered land. The law giver had formulated a principle for the distribution of the *fay'* as private property in respect of only the moveable. Therefore the public-ownership of the conquered land bore the original stamp-mark of Islamic legislation and not the subsidiary stamp-mark of nationalization and legislation after private-ownership in respect of it was established.

Anyway most of the text which we have cited go to establish, that the possession of the proprietary rights of the conquered land — that is the very land property itself was the property of the whole of the Muslim nation and the Imām being the head of the state was to manage and look after it and to demand a specific tax from those who enjoyed its usufruct to be paid to him by the tillers of it as lease money, in consideration of the usufruct derived by them from its utilization and was the *ummah* which was the owner of the tax and so long as it possessed the proprietary rights therein it was but natural that it owns its usufruct as well as the tax levied on it.

A Disputation of the Proofs of Private-Ownership :

There are among the Islamic research scholars some who are inclined to the view of subjecting the land conquered by force to the principle of the distribution of the land among the warriors who were present at the battle on the basis of private-ownership in the same way as all other spoils of war are distributed among them.

These people rely juristically on two things, one of them is the verse of *ghanīmah* (booty) and the other the reported practice of the Prophet in the distribution of the booty of Khaybar.

As for the verse of *ghanīmah is* what Allāh the Supreme says in the *Sūrah al-Anfāl:*

> *Know that the fifth of what you have conquered in the battle belongs to Allāh, His Prophet, the kinsmen, the orphans, the needy and the traveller if you believe in Allāh . . .* (8:41)

In the opinion of these people this from its obvious meaning demands that one-fifth portion of the spoils of war was to be set apart and subsequently the rest of it was to be distributed among the warriors present in the battle, without any difference as to land and the moveables of the booty. But the fact is that at the most the holy verse indicates is only the obligation of the taking one-fifth part out of the *ghanīmah* (booty) as a duty the state exacts for the good of the kinsmen, the needy, the orphans and the traveller. Let us assume that this fifth is taken out of the land also. However, this does not make clear under any circumstance, the fate of the (remaining) four-fifth portion of it nor what kind of ownership is to be applied to it. The *khums* (the fifth) as a duty exacted for the good of specific group just as it is their like possible to assume to take it out of the moveable properties of the spoils which belong to the warriors by virtue of the principle of private ownership, on account of these groups. So also it is possible to assume taking of it on account of these groups out of the land property (the immoveables) which peoples possess by virtue of the principle of public owner-ship. Hence by generalization no nexus is found to exist between the *khums* and the division of the spoils. Indeed the property obtained by way of spoil is subject to the

principle of quintuplet but it is not necessary that it be distributed among the participants in the war on the basis of private-ownership so the verse in respect of *'takhmis'* (quintuplet) does not point to the distribution of the spoils of war among the participants in the war.

As for the practice of the Prophet as reported in the traditions concerning the distribution of the spoils of Khaybar the second ground of these believers — they rely upon concerning the distribution of the land of Khaybar as private-property among the warriors (who took part in the battle) they are convinced that the Prophet in the distribution of the land of Khaybar among the wagers of the war, applied the principal of private-ownerships he distributed it among those who conquered it.

However, we fully doubt the soundness of this conviction e n if we assume the soundness of the historical narrations which have told us concerning the Prophet's having distributed the land of Khaybar among the warriors, for the history which relates this so speaks to us of other clear proofs concerning his pioneering practice which give help in understanding the rules which the Prophet applied in the distribution of the 'spoils' of Khaybar.

There is the evidence of the reservation of a great portion of (the land of) Khaybar by the Prophet for the benefit of the state and the good of the Islamic community. There is a tradition mentioned in the *Sunan* of Abū Dāwūd transmitted on the authority of Sahl ibn Abī Ḥathamah that the Prophet divided Khaybar (land) in two halves a half to meet his difficulties and needs and a half for distribution among the Muslims. This later he divided into 18 portions.

There is a tradition on the authority of Bashīr ibn Yasār, the slave of *anṣār,* as one of the companions of the Prophet. The tradition states when the Prophet conquered the territory of Khaybar he divided it into seventy and thirty portions, that is the whole into hundred portions. Half of this was for the Muslims and the Prophet, and the remaining half he set apart for the deputations which visited him and for the affairs and mishaps of the people.

There is a tradition from ibn Yasār that when Allāh granted His Prophet (victory over) Khaybar he divided it into a set of seventy and a set of thirty portions, the total being one hundred. He set

apart the half of it for the mishaps and those who visited him from al-Waṭīḥah (a fort of Khaybar) and the al-Katībah and what does with both of them and the other half he set apart for distribution among the Muslims to meet ash-Shiqq and as an-Naṭāh as gifts or bonefies for them, and whatever goes with these to both and the portion of the Prophet shared which goes with them.

There is another clear proof of it that though the Prophet distributed a part of the lands to individuals yet he had kept the management of the land under his control and authority since he had entered in direct agreement with Jews for the cultivation of the land with the stipulation of the option of their eviction whenever he wished to do so.

In a tradition in the *Sunan* of Abū Dāwūd it is reported that the Prophet intended to expel the Jews from Khaybar. Thereupon they told him, ''Muḥammad, let us work the land, we having a share as seems fit to you and your people having a share''.

There is a tradition in the same book also reported by ‘Abdullah ibn ‘Umar that ‘Umar said: ''O you people, the Messenger of Allāh (s.a.w.a.) had allowed the Jews of Khaybar to remain and cultivate the lands on condition that if we wished we would expel them from it so he who has any property belonging to him let him reach up to it (take it) for I am going to expel the Jews of Khaybar''. He then expelled them.

It is also reported by ‘Abdullah ibn ‘Umar as saying ''When Khaybar was conquered, the Jews asked the Messenger of Allāh to acknowledge their work on the lands on fifty-fifty basis of the produce. The Prophet replied ‘We let you do so on that condition for as long as we wish’. So they cultivated the land on that condition. The half date yield of Khaybar lands was used to be divided into two fixed portions and the Messenger of Allāh used to receive the *khums* (from thant).''

Abū ‘Ubayah cites in the *Kitābu ’l-amwāl* that the Messenger of Allāh handed over Khaybar — its date fields and its lands — to its owners on the fifty-fifty basis condition.

When we bring together these two narration of the practice of the Prophet his keeping a great portion of the revenue from the land of Khaybar for the good of the Muslims and for the affairs of the

state and his managing the affairs from the other portion in his capacity of a ruler — when we bring these two things together we will be able to formulate an explanation of the practice of the Prophet which will be in harmony with the previously given legislative texts (traditions) which enunciate the principle of public-ownership in respect of the conquered land; for it is possible that the Prophet may have applied to the land of Khaybar the principle of public-ownership which requires the nation's possession of the right of the proprietorship of the land and entails the necessity of its employment to the interests and needs of the nation.

The general needs of the nation of that time were of two kinds, one of which was the facilitation of the expenditures of the government which it disburses in carrying out its obligation towards the Islamic society and the other the creation of social balance and raising the standard of life which was low to such a degree that in the portrayal of it lady 'Ā'ishah said: ''We had not our fill of dates till Allāh granted us victory over Khaybar''. This is a degree of lowness which stands as a barrier against the advancement of a budding nation and the cure of the like of it being true in the life would be deemed a general need of the nation.

The prophetic practice realized the satisfaction of both kinds of the general needs of the nation. The Prophet guaranteed the satisfaction of the first kind of needs with half of the revenue from Khaybar by allocating it for misfortune and the deputations such other things, as stated in the tradition previously given, and the satisfaction of the needs of the second kind he remedied by way of allocating the other half of the revenue of Khaybar to the benefit of a large groups of the Muslims in order to help mobilizes the general manpower of the Islamic society and widen room before it to a higher level of life. However the division of the half of the land revenue among a great number of Muslims did not mean conferring upon them permanent proprietary right in respect of the land. The division was only in point of its revenue and the usufruct of it, while letting its proprietor-ship remain a common property.

It is this that explains to us the Prophet having a free hand in the management of the disposals in connection with Khaybar land as to individuals' fixed share therein, for the permanent right of

proprietorship of the land so long as it is the property of the nation, it is its guardian to whom the management of its affairs must be entrusted.

The conclusion we draw from all that is this: The conquered land belongs to the common ownership of the Muslims, if at the time of its conquest it is a cultivated land considered as a common property of the nation and held as a trust for its good it is not subject to the rules of inheritance, and whatever portion of such property a Muslim holds in his possession as an individual of the nation, is not transferred to his heirs, rather every Muslim has a right in it by the simple fact of his being a Muslim. Similarly a taxed land, too, is not inheritable nor sale-able, for sale of a trust property is not valid. ash-Shaykh aṭ-Ṭūsī has stated in *al-Mabsūṭ,* ''The disposal of it (the taxed land) by sale or purchase is not legal nor by gift, nor by exchange, nor by possession nor by lease (tenancy)''. Mālik says: ''The land is not divisible while it is a trust property for the utilization of tax accruing therefrom for the benefit of the Muslims in regard to such purposes of public utility as the supply of military provision for the fighting forces, construction of bridges, and mosques and in ways of such other good things of public utility''.

When it is committed to the agriculturist for its fructification, the agriculturist thereby does not earn right in the land (lit, a permanent personal right of holding the proprietorship of the land). He acquires the right of its tenure as a lease to till it and he pays the rent or the *kharāj* by way of consideration for it in accordance with the terms and conditions agreed upon in the lease (tenancy) contract. When the term of the lease agreed upon expires, his relation with the land is cut off and it is not legal for him thereafter to raise crop thereon or to make any use of it except by the renewal of the contract and by entering into a fresh agreement with the *waliyyu'l-amr a* second time.

This has been explained with complete explicity by the jurist Iṣfahānī in his commentary on *al-Makāsib* denying an individual acquiring any personal (private) right in the taxed land in addition to the limits of authorization by the *waliyyu '1-amr* in the lease-contract which gives him the right of enjoying the usufruct of the land and its fructification in consideration of the rent for a fixed

term.

If the taxed land is left neglected till it has become waste land and its cultivation has ceased, it does not lose its character of common ownership of the nation. Therefore, an individual will not be allowed to reclaim it except by a license from the *waliyyu 'l-amr* nor will an individual's reclamation of it result in his gaining a title to the possession of it as his private property. A person's gaining a special title to the private possession of the land by reason of its reclamation exists in respect of the state-lands only, we shall speak of it hereafter — and not in respect of taxed lands. The ownership of the taxed land is a common ownership of the Muslim nation as stated explicitly by the research scholar, the author of *al-Balghah* in his book.

So the areas of taxed lands which have suffered damage by neglect continue to remain the property of the Muslims and do not become a private property of the individual by reason of his reclamation and cultivation of them.

From a retrospect of this we can educe the following rules of the canon law (*sharī 'ah*) shall apply to every land which was annexed to Dāru '1-Islām by *jihād* while it was a land cultivated by former human endeavours at the time of its conquest:

First: that it shall be the common property of the nation and it shall not be lawful for any individual to acquire possession or appropriation of it.

Second: that every Muslim shall be considered to have a right to the land in his capacity of being a part and period of the Muslim community and his kinsmen shall not receive a share by way of inheritance.

Third: that it shall not be permissible for any individual to execute a deed of sale, gift or an analogous thing in respect of it.

Fourth: that the *waliyyu 'l-amr* (the head of the state shall be considered as the one responsible for the looking after and the fructification of the land and the levying of the tax in respect of it on his handing over it to the farmer for its tillage.

Fifth: the tax which the farmer pays to the *waliyyu 'l-amr* follows from the kind of the ownership of the land. It is the property of the nation like the land itself.

Sixth: that the relation of the lease shall end with the expiry of the term of the lease and it shall not be valid for the lease to hold the land monopolistically thereafter.

Seventh: that if the taxed land when it ceases to be cultivated and becomes a dead (waste) land, shall not (care) its character of public property and an individual shall not be allowed to acquire a property right therein by virtue of his reclamation and restoration of it to cultivation afresh.

Eighth: that the cultivation of the land by the toil and labour of its previous owners at the time of its Islamic conquest shall be considered the basic condition for its common ownership for the application of the above-mentioned rules and unless the land is cultivated by definite human endeavours it will not come under the regulation of these rules.

For this basis, in the field of practical application today we are in need of a vast amount of historical information regarding Islamic lands, and their area under cultivation in order, to single out, in the light of these information the tracts which were under cultivation from the other tracts which were desert lands at the time of conquest. However, in view of the difficulties of the availability of the ample conclusive information in this connection, a large number of the jurists have been content with presumptions in respect of it. Every land in respect of which the presumption predominates that it was a cultivated land at the time of its Islamic conquest is considered a common property of the Muslims.

Let us mention by way of an example the attempts made by some of the jurists to determine out of the lands of Iraq, which were conquered in the second decade of the hijra year, the taxed lands belonging to the common-ownership of the Muslims. It is mentioned in the book, *Kitāb 'l-Muntahā* by al-'Allāmah al-Ḥillī ''The *sawād* land is the land conquered from the Persians. It was conquered by 'Umar ibn al-Khaṭṭāb and that is the *sawād* land of Iraq. Its boundary limit breadth uses begins from the detached hilly tracts near Ḥulwān in the direction of Qādisiyyah adjoining with 'Udhayb bordering on the Arabian land and length wise it begins from the centre of Mawsil towards the sea-coat as far as 'Ābbādān from both of eastern banks of Dijlah (Tigris). As for both of

Western banks which are adjacent to Baṣrah that only is Islamic, such as the ‘Amr ibn al-‘Āṣ River (*shaṭ* ‘Amr ibn al-‘Āṣ). This land with its boundaries mentioned was conquered by force by ‘Umar ibn al-Khaṭṭāb. He had delegated to it, after its conquest three persons, ‘Ammār ibn Yāsir as a leader of its prayer, Ibn Mas‘ūd, as its Qāḍī (judge) and the administrator of the *baytu’1-māl* (public treasury) and ‘Uthmān ibn Ḥanīf as its land surveyor. He had fixed a goat for them for every day the half of it, with fallen dates for ‘Ammār ibn Yāsir and the half for the other two and declared ‘‘I know not, but I think the hamlet from which the goat is taken will soon be destroyed’’.

‘Uthmān surveyed the land but there was difference in estimation of its total area. According to the surveyor’s estimation its area was thirty two million *jarib* and according to Abū ‘Ubaydah’s estimation thirty six million *jarib.*

In Abū Ya‘lā’s book, *al-Ahkāmu’s-sulṭāniyyah,* it is mentioned that the limits of the *sawād* land was length wise from a town let off Mawṣil upto ‘Ābbādān and breadthwise from ‘Udhayb of Qādisiyyah upto Ḥulwān. In length is 160 *farsakh* and in breadth, 80 *farsakh* excluding villages named by Aḥmad and mentioned by Abū ‘Ubayd as al- Ḥīrah, al-Yānqiyā and the lands of Banū Ṣalubā and other village which were treaty lands (i.e. Dāru’ṣ-Ṣulḥā).

Abū Bakr has related with his chain of transmitters from ‘Umar that ‘‘Allāh the Mighty and Glorious granted us victory over the territory from ‘Udhayb upto Ḥulwān.’’

As for Iraq, it contains in its breadth the whole of the land conventionally termed *‘sawād’* but falls short of it in length as compared with breadth.

It begins on its Eastern banks of Dijlah (Tigris) al-‘Alath and on the Western banks of Dijlah from Ḥarbī, thereafter it extends to the extreme end of the provinces of Baṣrah to the islet of ‘Abbādān. Its length mapes 125 *farsakh* and is less in breadth by 35 *farsakh* (160 — 125 = 35) as compared with that of the *sawād* land. However, its breadth is 80 *farsakh* like that of the *sawād* land.

Qudāmah ibn Ja‘far states: ‘‘This makes practically ten thousand *farsakh* . The length of *a farsakh is* twelve thousand cubit (*zura‘* = fore arm) by free (*Mursalah*) measurement and by survey

measurement nine thousand cubits. This will make when the same is multiplied by the same and it is a fractonizing of *farsakh* by *farsakh* — twenty two thousand *jaribs* and five hundred *jaribs.* When this is multipled by the number of *farsakh* that is 10,000 (80 x 125 = 10,000) the total will make two hundred millions and twenty five millions *jaribs.* Deduce from it by (approximation) the area of lands occupied by hills, mounds, dung hills (ant-hills), bushes thickets, beaten tracts, high ways river courses areas of towns and villages hand-mill pools, lakes, bridges, serap, heaps of wishy out scourings, heaps, threshing floors, reed dumps, and the furance pits of the lease, etc. and we take this to be seventy five million *jarib* the remaining area will come to be one hundred million and fifty million *jaribs* take the half of it as uncultivated land and the half as cultivated land tuning with date palm and grapes garden trees.

If to what Qudāmah has mentioned in respect of the area of Iraq is added the remaining position from the *sawād* land and it is 35 *farsakh* the area of the land of Iraq will be increased by one fourth. This will make the total of the area of the *sawād* land all fit for the planting of trees and raising of crops. A part of this area however remains idle on account of uncountable accidents and happenings.

B- DEAD LAND AT THE TIME OF CONQUEST

A piece of land which when it was added to Islam was not cultivated by human hand or by nature then it was the property of the Imām. It is such a land to which we apply the technical term ‘State-Ownership’. It does not come within the orbit of private-ownership. It however agrees with the taxed-land in this that it is not subject to the principle of private-ownership yet it differs from it as to the farm of its ownership. The cultivated land at the time of conquest is considered common property of the nation when it comes under Islamic possession, while the dead land when it is added to the *Dāru’1-Islām* is considered a state property.

The Proof of State-Ownership of the Dead Land:

The argument which establishes the fact that a land which is a dead land at the time it is conquered is, the fact that it forms a part of the spoils of war as has been stated in the tradition. *Anfāl* (spoils of

war) means a collection of each and every one of those things and properties in respect of which the *sharī'ah* has ruled that these things belong to the ownership of the state by the dictum of Allāh in the holy Book.

> *They ask thee* (O Muḥammad) *of the spoils of war, say: ''The spoils of war belong to Allāh and the Messenger, so keep your duty to Allāh and adjust the matter of your difference and obey Allāh and His Messenger if you are* (true) *believers''.* (al-Anfāl, 8:1).

In reference to the occasion of the revelation of this verse ash-Shaykh aṭ-Ṭusī has related (a tradition) in his book *at-Tahzīb* that some people asked the Messenger of Allāh to give them something out of the spoils. It was at that time that this verse was revealed affirming the principal of the state-ownership of the spoils of lower (*anfāl*) and rejecting their division among the individuals on the basis of the principle of private-ownership.

The Apostle's control over the spoils (of war) was by virtue of his being the head of the state to which the spoils belong and makes the ownership of the spoils an uninterrupted ownership which extends to the office of the Imām ever after him, as has been stated in a tradition from 'Alī (a.s.). He said: ''To the one who is charged with the affairs of the Muslims belong the spoils which belonged to the Messenger of Allāh. Allāh the Mighty and Glorious, has said: *They ask thee of the spoils say: 'The spoils belong to Allāh and the Messenger'* and what belongs to Allāh and His Messenger belongs to the Imām ''.

So if the spoils were for the Prophet as ordained in the above quoted verse of the holy Qur'ān, and since the dead land formed a part of the spoils, it is natural for it to be included in the orbit of the state-ownership.

It is on this basis that aṣ-Ṣādiq (a.s.) is reported to have said in connection with the determining of the ownership of the state (Imām) that ''All dead land, each and every one of them belong to Him. This he has stated on the basis of the dictum of Allāh the High, *They ask thee of the spoils* (that you give something out of them) *say 'spoils belong to Allāh and the Messenger.'*

There are some other things which indicate that dead lands belong to the ownership of the state. There is a tradition in which the Prophet has said ‘‘No person has any title to the dead land except with whom the Imām is pleased’’. Abū Ḥanīfah has inferred from this that no person is entitled to reclaim or appropriate any dead land without the permission of. the Imām and this entirely agrees with the fact of the dead land’s belonging to the ownership of the Imam or in other words the owner-ship of the state (vide appendix II). Also to this points the tradition which is given in the *Kitābu ’l-amwāl* by Abū ‘Ubaydah reported by Ibn Ṭāwūs from his father that the Messenger of Allāh said: ‘‘Land belongs to Allāh and His Messenger there-after it belongs to you’’. This *an-naṣṣ* (text of the tradition) gives the ruling in respect of *‘adī* land that its ownership belongs to the Messenger of Allāh and the other sentence ‘thereafter it belongs to you’ affirms the right of its reclamation of that we will speak hereafter.

It is stated in the *Kitābu ’1--amwāl* that ‘‘Every such land is an *‘adī* land as had men dwelling on it in the ancient time. Then not a domesticated person remained thereon. Such a land is ruled to belong to the Imām similar is the case of every lifeless land, which no man has revived by reclaiming or which does not belong to a Muslim or to man with whom a treaty is made’’.

Also in a tradition given in *Kitābu ’l-amwāl* it is stated on the authority of Ibn ‘Abbās that ‘‘When the Messenger of Allāh arrived at Medina, all the land to which no water reached was made over to him to do with it, as he wished’’. This text of the tradition does not affirm only the principle of the state-ownership of every lifeless land which was far from supply of water but also affirms the application of this principle during the period of the prophetic rule. So two legal forms of ownership are applied to the cultivated and dead lands acquired by conquest, these were: public (common) ownership to the cultivated land and state-ownership to the dead land.

Result of the Difference Between the Two Forms of Ownerships:

Although these two forms of ownerships, the common—ownership of the nation and the state-ownership, agree as to their

social significance, yet they express two different legal forms the owner in the case of one of these two forms is the nation while the other form it is the office of the one who conducts the government of the nation on behalf of Allāh. They reflect the difference in the way of the use of the usufruct derived from the both ownerships and the part they play in the contribution of their share towards building up of the Islamic society. The *waliyyu 'l-amr* is required in respect of the usufruct derived from the land and wealth which belong to the common ownership of the nation to employ them as to contribute their share in satisfying the collective needs of the nation and for the realization of its interests which are connected with it as a whole, such as the creation of hospitals, amplification of the means of treatment, providing the facilities of education and such other general social establishments which are of service to the whole of the nation. It is not lawful to make use of the common ownership (i.e. usufruct derived therefrom) for the benefit of a particular section of the society, unless its benefit is connected with the benefit of the society as a whole, (in benefitting it the whole society is benefitted). For example, it is not permissible to raise fund for the benefit of the poor from the fruits of that ownership, unless it happens to be in the interest and the need of the nation such as when availing of the common ownership in this way helps social balance. As for the properties belonging to the state, just as they can be invested in the field of the general benefits of the whole of the nation so in the same way they can be invested for the benefit of a definite project, like the creation of funds therefrom for (the benefit of) any one of the individuals of the society who is in need of it.

The Role of Reclamation Concerning Dead Lands:

Just as the cultivated a land and the dead land differ in respect of the ownership they also differ from the point of the rights which an individual is allowed to acquire in respect of them. The *sharī'ah* does not confer upon an individual special right of proprietorship of the land which was in a state of cultivation at the time of conquest even if the individual has restored it to cultivation after it had become waste land as we have already learnt.

But the *sharī'ah* has permitted individual to put in labour to reclaim and

recultivate the land if it was a dead land at the time of conquest and has confered specific right to the individuals in respect of it on the basis of their having expended toil and labour in way of its reclamation andre-cultivation. From among the traditions which establish this fact, there is a tradition from the *Ahlu 'l-bayt* that:

He who reclaims a land, that land belongs to him. He has a greater right and claim to it.

A tradition is cited in *Ṣaḥīḥ al-Bukhārī* reported by 'Ā'ishah that the Prophet said:

He who cultivated a land which belongs to no one has a a greater right and claim to it.

On this basis we learn that the land belonging to the common-ownership is according to *sharī'ah is* incompatible with an individual's special right in it; so an individual does not acquire a special right in respect of a land belonging to common-ownership whatever service he may have rendered in order to revive and restore it to cultivation after it had become a waste land by neglect, while we find a land of the state-ownership is compatible with the individual's acquiring special right.

The reviving and restoring to cultivation is the basic source of the special right in respect of the state-lands. So it is performing of this work or the beginning of the preparatory operations for it which confers upon the performer of this work a special right in these lands. The *sharī'ah* does not acknowledge a private right in a general way besides this (vide Appendix III).

The important juristic question in respect of this matter is connected with the nature of the right an individual acquires by his reclamation operation so when a person works on a dead land and restores it to cultivation, the question is what kind of right it is that he acquires on it as a result of his doing so?

The reply of many of the jurists is that the right which the individual receives by his reclamation of the land is the replacement (rendition) of the possession of it to his private ownership so the land is taken out off from the domain of its ownership of the state to the orbit of private-ownership. The individual becomes the owner of land which he has reclaimed as a result of the labour he has expended on it to revive it.

However there is another juristic view which is more in harmony with the legislative texts. The view that the rehabilitation of the land does not

change the form of the ownership, and that the land continues to remain the property of the Imām or the Imāmate (the office of the Imām) and does not permit an individual to come into possession of its proprietary right even if he has restored it to cultivation. An individual acquires a right in respect of the land but not at the level of ownership. Restoration of the land to cultivation vests in him the right of the usufruct of the land and to benefit from it; and the prevention of those others who did not participate with him in the work and labour for the reclamation of it from molesting him and the seizure of the land from him so long as he fulfils his obligation in respect of it. However this degree of right does not excuse him from payment of his dues to the office of Imāmate, as the legal owner of the proprietary right of the land. The Imām has a right to impose upon him an amount of rent or as has been mentioned in the tradition — in proportion to the profit he reaps from the use of the land he has reclaimed.

The great jurist ash—Shaykh Muḥammad ibn al-Ḥasan aṭ-Ṭūsī, has adopted this view in his discussions of *jihād* in his book *al-Mabsūt.* He mentions therein: Indeed the individual does not acquire proprietary right of the land by virtue of his reclaiming of it. He only owns usufruct derived from it on condition that he pays to the Imām the dues imposed upon him for the use of the land. Here is the text of the relative sentence in his own words:

> As for the dead lands; they do not come under the head of the booty of war (*ghanīmah*). They exclusively belong to the Imam. If any Muslim reclaims such a land then he shall have the right on it, and to the Imām will belong its tax.

This very view we find in the book *Bulghatu 'l faqīh* of the profound jurist research scholar, as-Sayyid Muhammad, Baḥru'1-'Ulūm. He too learns towards the denying of the right of possession by reclamation free from any right thereon. The Imām will have right to the tax on the land as agreed upon during his hold and during his period of rule and a like fee in absence of the agreement. This does not contradict the traditions which ascribe the ownership of the land to it reclaimer that is, the traditions in which it is said: ''He who reclaims the land, the land belongs to him''. This is just like the conventional words of the landlords telling the farmers by way of incentive when they urge them to reclaim and make their landed estate prosperous that he who cultivates it, drills the rivers on it or dredges its irrigational

canals the land will become his. This means that such a person will have a greater right to it than any other person and — his priority over to it as compared to other and does not imply denying -the ownership of the land to himself and depriving him of the ownership from his person because the portion which goes to the landlords expresses their being the undeniable beneficiary of the land even if the property is annexed to the farmers on the grant of licence or general permission.

The view which ash-Shaykh aṭ-Ṭūsī and jurist Baḥru ’l-‘Ulūm have avowed, is supported by a number of established traditions — through a proper channel — from the Imāms of the *Ahlu ’l-bayt* — ‘Alī and his descendants (p.b.u.t.). In some of them it is given: ‘‘Anyone of the faithful who reclaims a land, the land becomes his and he shall pay *ṭasq’’.* And in some it is given: ‘‘Anyone from among the Muslims reclaims the land let him till and let him pay the tax of it to the Imām. For him belong what he consumes therefrom’’(vide Appendix IV).

In the light of these traditions the land does not become the private property of the man who reclaims it. If it had become his private-property it would not have been a right thing to require him to pay the land rent to the state. Since he has to pay the land rent the proprietorship of the land remains the property of Imām. The individual enjoys the right of holding the land in his possession which empowers him to avail of its usufruct and to prevent others seizing it from him. In lieu of that the Imām will impose *ṭasq* upon him.

This juristic opinion, which gives a true sense of term as to ownership of the Imām and which allows the Imām the right of imposing *ṭasq* on the state-estates, we do not find being held only by the jurists belonging to the jurist school of Shī‘ah of *Ahlu ’l-bayt* such as ash-Shaykh aṭ-Ṭūsī, rather it has its seeds and manifold forms of it in various other Islamic juristic schools.

al-Māwardī mentions from Abū Ḥanīfah and Abū Yūsuf: ‘‘If an individual reclaims a dead land and irrigates it with tax-water that land will become a tax-land and the state will have the right to impose tax upon it’’. Both of them mean by the tax-water the rivers conquered by force like the river Tigris (Dijlah) and the Euphrates

(*Furāt*) and the Nile.

It is stated in the *Kitābu 'l-amwāl* of Abū 'Ubayd, Abū Ḥanīfah used to say, *''Kharāj* (tax) land is every land which is irrigated.''

As for Muḥammad ibn al-Ḥasan ash-Shaybānī, he too on his part has acknowledged the principle of the imposition of the tax on the dead lands that are reclaimed. But he has chosen details other than those chosen by Abū Ḥanīfah and Abū Yūsuf mentioned herein before.(He says) ''If the reclaimed land happens to be situated on the banks of the rivers dug by the non-Arabs then it is a taxed land. But if it is on the banks of the rivers which Allāh the Supreme and Mighty has caused to flows, then it is a tithe land''.

Anyway, we find in one or other form tendencies in various juristic writings towards imposing of the tax on reclaimed (dead) land, but there is not to be found in the Islamic law anything which could be considered a rudiment of justification for denying the right of imposing tax on the reclaimed land save the exceptions Imam availed of from the traditions of dispensation (*Akhbāru't-taḥlīl*).

But when we cite an excerpt from the jurist produce of ash-Shaykh aṭ-Ṭūsī concerning the principle of the Imām's owner-ship with this meaning which allows the Imām to impose a tax on whatever land is reclaimed. We are examining the position of it on the plane of theory only since it is on the side of theory that we find justifications for the inference of this principle from the legislative texts.

On the plane of application however, this principle was not adhered to in practice in Islam rather it was commended in the sphere of practice and was dispensed with by way of exception, in case of some person and during certain times as is indicated by the traditions of dispensation. Freezing of this principle, in the field of application or in the holy Prophet (way) cannot be considered a proof as to its being unsound theoretically. It is the right of the. Prophet to exempt or excuse any person from the payment of the *ṭasq* (exercising of this right does not mean that an Imām who comes after him is not permitted to act on this principle) or his application of it when the circumstance which have prevented its application no longer exists. Similarly the texts which urge dispensation with the implementation of this principle, in respect of certain persons (by way of exception do not prevent considering it a rule which can be adopted in the other than the exceptional cases explained in the traditions of dispensation (*Akhbāru't-taḥlīl*).

However, since in this study of ours, we are endeavouring to obtain information in respect of the theory in Islam, it is our duty to include this principle in our economic study since there is an Islamic basis for it on the theoretical side. As such it is a component part of the complete form which represents the Islamic theory in the field which we are studying irrespective as to whether it took its share of application or was forced by circumstances over which it had no control or for reasons of expediency to put it in cold storage.

* * * * *

In the light of what we have already stated the difference between the farmer who works on the plots of land of the common-property and the farmer who tills the plots of land to the ownership of the state-property although both of them at the same do not possess proprietary right in either of the lands yet they differ as to the extent of their relation with the land. The farmer who cultivates the common property is only a tenant as has been affirmed by the jurist research scholar al-Iṣfahānī in his commentary of *al-Makāsib.* The Imām holds the right to take away this land from him and give it to some one else when the period of his lease contract of tenancy expires. As for the cultivator of the land belonging to the second sector (state property) the farmer who holds the land in this sector enjoys the right vested in him to derive usufruct from it and to prevent others from taking it away from him so long as he fulfils his obligation towards maintaining it in good condition and its cultivation.

Every individual is allowed freely to carry out the work of reclaiming a land in the sector belonging to the state without obtaining a licence from the head of the state (*waliyyu'l-amr*). The above mentioned texts have given all unqualified permission for its reclamation to all. So this permission is effectual so long as the state does not see, as under certain circumstances the expediency of its prohibition. Now there are some jurists who hold the opinion that the reclamation is not valid and that it confers no right unless it is carried out with the permission and the license obtained from the *waliyyu'l-amr* (head of the state) permission issued by the Prophet as contained in his dictum, he who reclaims a land has a greater claim and title to have it is not sufficient because this general permission was issued by him as a head of the Islamic state and not in his capacity of a

Prophet so its effectuality does not extend to all times but ends with the ending of his rule.

Anyway, undoubtedly the head of the state (*waliyyu'1-amr*) possesses the right to prevent the reclamation of some state-lands or fix limit as to how much of the portion of those lands will be allowed to be reclaimed if that was required in the public interest.

We extract the following points from the prescription in respect of the reclamation of dead lands:

Firstly: It is deemed a state-property.

Secondly: Its reclamation on the part of individual is valid principally unless their doing so is prohibited by the authority (*waliyyu'l-amr*).

Thirdly: If an individual reclaims the land which belongs to the state he acquires a right in respect of it which vests in him the enjoyment of its usufruct and prevention of others from (putting obstruction in his way) the land will not become his private property.

Fourthly: The Imām shall demand from the reclaimer of the land a tax because the land is his property by permanent proprietary right (*ruqbatu'l-arḍ*). He shall impose this tax as a trust for the benefit of the public good and for maintaining the social balance. The Imām also shall have the right to exempt anyone from the payment of the tax under definite circumstances. We shall find the exceptional considerations in this respect from the practice of the Prophet.

C- NATURALLY CULTIVATED LAND AT THE TIME OF CONQUEST

Many jurists hold the opinion that naturally cultivated lands — that is, such of the lands as existed in a state of natural cultivation at the time of the conquest, like forests, etc. share the same form ownership as the dead lands as mentioned in the talk given a short while ago. They hold that these lands are the property of the Imām. In their opinion they rely on the traditions transmitted from the Imāms in which it is stated that ''every land which has no lord belongs to the Imām.'' This tradition gives to an Imām the ownership of every land to which there is no owner and the forests and such like things are of this kind. A land has no owner except by reason of its cultivation and the forest are cultivated by nature without the intervention of definite man in that respect so in *sharī'ah* it has no lord or master

consequently it is subject to the principle of the state ownership.

Our observation on this opinion is, the application of the principle of the state-ownership (Imām's) to the forest and lands like those which have grown up of their own accord, because of the nature of their soil will be valid in case of forests (etc.) only if they were annexed to the *Dāru'l-Islām* without war because they are owner-less. But as for the forests and lands which grow up of their own accord by their nature, that were conquered by force and seized from the hands of the infidels these are the common property of the Muslims for they come under the legislative texts which give the Muslims the ownership of the land conquered by force, so if the forests come under the orbit of the common ownership in accordance with these texts they will come to be a land which has a master and the owner of it is the whole of the nation so there will be no justificatory factor for its inclusion under the category of an ownerless land. So as to comprehend it within the text which holds, that every land which is lord-less belongs to the Imām.

So generalizing from this we should apply to the lands which had grown up of their own accord and forest, conquered by force, the very rules which we apply to the lands which were cultivated by human toil and labour at the time of conquest (vide Appendix VI).

2- THE MUSLIM LAND BY CALL (*AD-DA'WAH*)

The land which became Muslim by the call to Islam are all those lands which responded to the call to Islam without plunging in armed conflict like the city of Medina, Indonesia and a number of wide scattered spots of the Islamic world.

The Muslim lands by the call to Islam like the Muslim lands by conquest are divided into lands which their inhabitants had cultivated and their owners accepted Islam willingly; and the lands naturally grown like forests and the lands which were dead lands when they were annexed to Islam.

As for the dead land of the countries the inhabitants of which had became Muslim were like the dead lands acquired by conquest, the principle of state ownership is applied to them and all the rules apply to them which are applied to the conquered lands became the dead land are universally considered *anfāl* (accessions) and *anfāl* are the property of the state.

Likewise the naturally cultivated lands which are annexed to the possession of Islam by the peaceful acceptance of Islam too are the property

of the state by the application of the juristic principle which holds that 'every land which has no owner is a part of the *anfāl*'.

But the difference between these two kinds of land — the dead land and the cultivated land — despite both of them being state property is this that an individual can acquire a specific right in respect of the dead land by way of its reclamation, and the same rules are applied to it as are applied to conquered land the legislative details of which are already given in connection with the conquered dead lands. As for the lands which have grown up of their own accord when it has voluntarily been added to the *Dāru'l-Islām*. An individual has no means of access to the acquirement of a right and title to it on the ground of its reclamation it is land self grown and live land by nature. The only thing open to him is to avail himself of its usufruct. When a person makes use of it and avails himself of its usufruct then the land will not be taken from him on account of another individual. No favour is shown to one individual in preference to another so long as the first individual is availing himself of its usufruct. However, another individual will be allowed to avail its usufruct within limits which do not put the first in trouble or interfere his availing of its usufruct or when the first individual leaves of availing himself of its usufruct or of making use of land for productive purpose.

However, the cultivated land of the country the inhabitants of which have voluntarily embraced Islam will belong to them for Islam confers upon a Muslim who embraces Islam voluntarily in respect of his lands and other property all the rights which he enjoyed before he embraced Islam so the Muslims who have embraced Islam voluntarily enjoy the retaining of their lands and the right of owning it as their private property and no tax will be levied on them and their properties will be their wholly as they were theirs before Islam (vide Appendix VII).

3- THE LAND OF *ṢULH* (TREATY LAND)

These are those lands which were invaded by Muslims in order to capture them. Its inhabitants did not embrace Islam nor offered armed resistance to the call of Islam but remained on their religion and were pleased to live in the lap and under the protection of Islamic state in peace and security. Such a land is termed a land of peace by agreement — treaty land in juristic usage, and whatever has been executed in treaty terms will apply to this land. If the text of the treaty term lays it down that the land

belongs to its inhabitants then the land will be considered on the basis of it, their property and the Muslim society will have no claim or title to it. If it has been executed in treaty terms that the land will belong to the Muslim community it will become binding and the land will be subject to the principle of the common ownership and *kharāj* (tax) on it will become incumbent.

It will not be valid to deviate the terms agreed upon in the treaty. There is tradition in the *Kitābu'l-amwāl* that the Prophet said: ''When you are in fight with a certain group, and they are prepared to make peace with you against their wealth (*amwāl*) in order to save their lives and the lives of their children, then do not take more than what has been due, since the excess (amount) is unlawful for you''. It has been mentioned in the *Sunan* of Abū Dāwūd that the Prophet said: ''Behold, whoever wrongs a contractee or mutilate or burden him with a task beyond his capability or take something from him without his consent, then, on the Day of Judgement I shall argue in favour of him (the contractee)''.

As for the dead treaty lands, the rule of state ownership will be applied to them like the dead lands acquired by conquest and the waste lands acquired by its peoples voluntary acceptance of Islam. Also the forest and such other lands which belong to the country, unless there are included in the treaty terms by the Prophet in that case treaty terms will apply to them.

4- THE OTHER LANDS BELONGING TO THE STATE

We will find other kinds of land which are subject to the application of the principle of state ownership, like the lands which the inhabitants had surrendered to the Muslims without any attack. These lands come under the category of *anfāl,* and belong to the state of the Prophet and Imāms as per another version as has been enjoined in the holy Qur'ān by Allāh, the High and Mighty:

Whatever Allāh gave as accessions to His Messenger from them, you urged not any horse or riding camel for the sake thereof but Allāh gives His Messenger Lordship over whom He wills, Allāh is able to do all things (59:6).

Also the lands, whose inhabitants have perished and had become extinct, belong to the state according to the tradition reported by Ḥammād ibn 'Isā from Imām Mūsā ibn Ja'far (a.s.): *''Anfāl* belong to the Imām, and *anfāl is*

every land whose people have perished (become extinct) . . .''

So also the newly found land in Dār*'l-Islām,* for example, an Island (lagoon) was formed in the sea or a stream. It also will be included in the ownership of the state by the application of the juristic rule that ''every land which is owner-less belong to the Imām''.

THE LIMIT TO THE PRIVATE AUTHORITY ON LAND

From the details given previously we can elicit that the competence of an individuals to the land and his personal right is established on the ground of one of the three reasons:

i) Reclamation of a piece of a state-land.

ii) Entering of the inhabitants in the fold of Islam and their voluntary acceptance of the same.

iii) The land's becoming a part of *Dāru'l-Islām* by a peace-treaty stipulating the confirming of the title of the land to the contracting parties.

However, the first ground differs from the two latter reasons as to the kind of the particular relationship which ensure from it (i.e. the kind of the title over the individual acquires over the land). It is this that on the first ground, that is the individuals reclamation of a piece of a state land the land will not come to be classified as private property nor it leads to the stripping it of its stamp of state-property or preventing the Imām from imposing upon the individual who cultivates it a (fixed) land tax or a remuneration for his use of the land. The only title to the land which will result to the individual by virtue of his having put the land recultivation will be this much that, he will be allowed to enjoy the usufruct he drives from his raising up of it and from pre-cutting of the other from obtruding him or becoming his rivals in that as stated previously. As for the other two grounds, they confer upon a Muslims' individual the owner-ship of the land or the usufruct derived from the ownership of the land and will come to be classified under the category of private ownership.

The private possession of a land by an individual, whether it be on the basis of right or on the basis of ownership, it cannot be an absolute private possession in respect of time. But the possession and a (delegated) authorization limited to the individual's discharging his responsibility towards the land. So if he leaves off discharging his responsibility in this

respect, in a manner which is explained in the traditions which will follow, the individual's title to the land will become void. He then will have no right of holding exclusive possession of the land and preventing others from cultivation and enjoying usufruct of it. By this, the concept that the ownership is a social function, receives its most cogent explanation in respect of the land and the rights of the individuals in respect of it.

The proof of this from the side of *sharī'ah* is a number of legislative texts.

It is stated in the tradition reported by Aḥmad ibn Muḥammad ibn Abī Naṣr on the authority of Imām 'Alī ibn Mūsā ar-Riḍā (a.s.) that the Imām said: ''He who embraced Islam out of his own free will, land will be allowed to remain in his possession and tithe will be obtained from him in respect of whatsoever of it is cultivated, if it is irrigated by rain or rivers, and if watered by manual labour half of the tithe and that the Imām will take from him whatsoever of it he has not cultivated and will give it to him who will cultivate it, The land will remain the property of the Muslims and the lessor will have to pay out of their shares the tithe or half of the tithe.''

In an authentic tradition reported by Mu'āwiyah ibn Wahb it is stated that Imām Ja'far (a.s.) said: ''A man who find a barron and waste land and dredges canal and cultivate it, he will have to pay *sadaqah* (*zakāt*) in respect of it. However if it belonged to a man before him who had absented himself from it and left it and wasted it and came afterward demanding it, (he has no right on it) for the land belongs to Allāh and to him who cultivates it.''

There is an authentic tradition reported by al-Kabūlī on the authority of the Commander of the Faithful 'Alī (a.s.) that any Muslim reclaims a dead land let him cultivate it and pay land tax on it to the Imam of my *Ahlu'l-bayt*. What the land yields will belong to him, but if he leaves it and wastes it and any other Muslim takes it, cultivate and reclaims it, that person shall have greater claim to the land than the one who left. This another man have to pay land tax in respect of it to the Imām.[1]

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[1] The tradition reported by al-Kābulī and the authentic tradition reported by Mu'āwiyah ibn Wahb cannot be deemed to be in conflict with the tradition reported by al-Ḥalabī on the authority of the Imām aṣ-Ṣādiq (a.s.) in which al-Ḥalabī says that he had asked him (the Imām) in respect of a man who comes to a waste-land, he reconditions it, causes its canal to flow, reclaims it and raises crop on it, what dues he has to pay? The Imām replied *''Ṣadaqah''*. I then asked,

In the light of these texts we learn that the right which gives to the individual a title to the fixed possession of the land so as to prevent others from making use of it, he loses by the land's becoming waste land and (that due to) his neglect of it. So he loses thereby his right of denying others the right of tilling. After his neglect of the land in such a manner, it is not permitted to him to prevent others gaining control over it and making use of it so long as he is negligent of it.

There is no difference in that respect between the individual's having acquired the title over the land by virtue of his having put in labour to revive it and by other means or reason. He will not be allowed to have an exclusive control and possession of the land after its becoming a waste and after its neglect of it by him irrespective of whatsoever means by which he may have acquired the title to its exclusive possession.

Now if the land happens to be a state-land (Imām) that a person had in his possession which he allows to be neglected till it becomes a wasted that land after its becoming a waste comes back to become a land free to all (*mubāḥ*) to make use of it. To it are applied the very rules which are applied to all the waste lands which belong to the state. It gives room to its reclamation 'denovo'. To its reclamation denovo once again will be applied the very rules which were applied to it on its first reclamation.

There is text of ash-Shahīd ath-Thānī in his *al-Masālik,* which elucidates this meaning. He writes: ''This land, that is the land the individual had reclaimed and which afterward had became a waste-land, was originally a free land open to all to make use of it (*mubāḥ*) when it is left from being cultivated, it comes back to its original status quo and becomes *mubāh* (free

''And if he happens to be knowing its owner?'' He replied ''Let him pay to him his due''.

This is because in the reply returned in the tradition of al-Ḥalabī, the only thing taken for granted is merely the fact of the land being ceased to be cultivated. This indicates something more general than its being a waste land on account of the neglect of its owner. Whereas the authentic tradition reported by Mu'āwiyah ibn Wahb takes for its subject matter some-thing more specific, it is there that its former owner neglected the land and caused it to become a waste-land. This altogether is more a specific thing and the specification requires the relationship of the owner of the land with the land to terminate with and because of the land becoming a waste-land and there without his right of preventing its recultivation.

to all) for the reclamation and cultivation of it was the cause of the acquisition of the title to its possession. When the cause ceases to operate the effect ceases''.

He means to convey thereby that the right and title to the land which the individual acquires is the outcome of his reclamation of it, hence its effect. When the land ceases to show signs of life his right as to the possession.[1]

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[1] When this juridical text is compared with the legislative texts which have come across in the reports of Mu'āwiyah ibn Wahb and the reports of al-Kābūlī, it will be observed that the text of ash-Shahīd is conspicuously clear in that when the land becomes waste-land, the relationship of the individual (who reclaimed). With it is terminated for good.

As for the texts previously given, they (do) permit any other individual treclaim the land after it becomes a waste-land and to neglect by its owner and confer the land upon him instead of its former owner. But they do not indicate the termination for good of the relationship of the land with its former owner on account of its becoming a waste-land, for it is possible within the limited of the legislative implications of growing in these texts for us to presume its owners retaining a right and title to it and his relationship with it even after its wastage, to a degree which gives him a prior right to reclaim it denovo when anyone else complete with him to reclaim it. This right of priority as to his reclaiming land denovo continues to be his so long as no one has taken march over him in reclaiming it. However the old owner's relationship with the land is cut off finally if the other person has actually reclaimed it denovo during the period of his neglect of it.

Now on the basis of the juridical text of ash-Shahīd, the individual's right and title to the land is completely terminated on the lands becoming a waste-land.

But on the basis of the other texts we can presume that the individual's right and title to the land remains, to a certain extent and only his right to the holding the land exclusively is, lost that is the right of preventing others from making use of it and enjoying the usufruct derived from it.

The difference of these two presumptions will have its practical repercussion in case when the individual who neglects the land and it becomes a dead land, dies before anyone else has reclaimed it. Going by the opinion of ash-Shahīd will lead to the dictum of the non-transference of the land to his (legal) heirs the relationship of its owner with it having terminated finally after its having become a waste-land, so there is no meaning in the inclusion of it in the inheritable assets of the deceased man. But on the basis of the second opinion the land will be inherited in . the sense that his heirs will enjoy the same degree of right in respect of the land which remained to the deceased after its becoming a waste-land.

Henceforth, our discussion will be based on the opinion and views of ash-Shahīd ath-Thānī.

al-Muḥaqqiq ath-Thānī has mentioned in his *Jāmi'u 'l-Maqāsid* that the loss of exclusive title to the land by its reclaimer after its becoming a waste-land and validity of other person taking it and acquiring exclusive title to it is a well known accepted view among the *aṣḥāb* (Prophet's companions) and pre-vails in the pronouncement of the juridical opinion in respect of it.

But if the land which its owner has neglected happens to come under the category of private-ownership, such as the land which has voluntarily embraced Islam, the ownership of such a land is not transferred from its owner without the loss of his title to it on account of his neglect of it his feature of the discharge of his duty towards it as we have learnt. The land in that case is returned in the opinion of Ibnu 'l-Barrāj, Ibn Ḥamzah and others, to become the property of the Muslims and is included in the category of properties belonging to common-ownership.

From this we learn that the exclusive appropriation of the land whether by way of right or as property is limited to the individual's of his social duty in respect of the land, so if the individual neglects his duty towards it desists from tilling it till it becomes a waste-land his nexus with it is severed and the land becomes free from his shackles. The land comes back to the state to be its whole and sole property, if it happens to be a dead land by its nature as to and it becomes the common property of the Muslims, if the individual who neglected his duty towards it and lost his title to it, had acquired his title to it by legal reason as is the case in respect of the lands in a country the inhabitants of which had voluntarily embraced Islam.

THE GENERAL OUTLOOK OF ISLAM TOWARDS THE LAND

In the light of the multifarious rules of land which Islam has exacted concerning the land and our acquaintance with their details we can educe the general outlook of Islam concerning the land and its course under the auspices of Islam which the Prophet or his lawful successor who pursued the practical application of it, so that when we will try to present after that the legal rules of Islam which are connected with the other natural wealths and the basic sources of production in their entirety we will revert to that general outlook of Islam concerning the land to it with an outlook more general and extensive formulating the doctrinal basic and foundation of distribution before production.

In order to be helped to the bringing to light of the Islamic standpoint and the examination of the economic content of the Islamic outlook concerning the land as well as the isolation of it from all considerations of political description, — to accomplish all this we had better start — in the determination of the general Islamic outlook from a supposed illustrative example which will help us to the bringing to light of its economic content free from its political bearings.

Then let us suppose that a party of Muslims decides to adopt for its homeland a region which is still a virgin land. It establishes in that region

an Islamic society and sets up its relations on the basis of Islam. Let us imagine that its lawful ruler, the Prophet or his Caliph undertakes the organisation of these relations and the embodiment of Islam in that society with all its ideological, cultural and legal virtues and values in their entirety. Now in what shall be the stand-point of the ruler and the society vis-a-vis the land and how its ownership will be organised?

The reply to this will be readily available in the light of the details already given. The land which in our supposed example, we have decreed to become the home land of the Islamic society, and on whose soil heavenly civilization will grow up, we have assumed to be a natural. virgin soil. Human factor has not intervened in it yet. This will mean that this land confronts man and enters into his life for the first time at a prospective moment of history.

It is natural that the land to be found divided into two kinds of land as to soil, that is there in will, land in respect of which nature has fulfilled all the conditions of the life and production such as water, warmth, softness of the earth and such other things and that they are naturally fertile lands. And there will be lands which have not been fortunate in acquiring these distinctive features but they need human labour to fulfil these conditions in respect of them. These lands are termed dead lands in the juridical sense, so the land which we have supposed will witness the birth of Islamic society, will consist of a land which is either a naturally fertile land or a dead land and no third kind of land exists therein.

The naturally fertile land thereof shall be, as we have been told before, the property of the state or in other words the property of the Prophet or his lawful successors in their capacity of the head of the state according to the legislative and juridical texts, so it is mentioned in *at-Tadhkirah* of al-'Allāmah al-Ḥillī that there is a consensus between the *'ulamā'* in respect of it.

Likewise the dead land, is the property of the state as we have already learnt even ash-Shaykh al-Imām al-Mujaddad al-Ansārī has mentioned in his *al-Makāsib* that the texts in respect of this are in profusion. It is even said they are profuse to the extent of *tawātur*.

Well, then Islam applies to the whole of the land, when it looks to it in its natural formation, the principle of the owner-ship of the Imām and subsequently stamp-mark of common ownership.

In the light of this we are able to understand the traditions transmitted on

the authority of the *ahlu 'l-bayt* (Imāms) with chains of authentic supports which assert that all the land in its entirety is the property of the Imam and when they affirm the ownership of the Imām they look to the natural form of the land as stated afore.[1]

Let us look at the kind of claim to the land Islam has permitted to the individuals of the society of our supposed example. In this sphere we should eliminate mere possession of the land or the control acquired over it, as an original justificatory factor of the claim to the land taken into possession and acquired control over, because we do not possess a single authentic text which affirms such a thing in the *sharī'ah.* The only thing which we learn is that the claim which they justify by law (*sharī'ah*) *is* the claim arising from reclamation of the land, that is individual's expenditure of labour on a dead land to infuse life into it.

The performer of this labour, or preparatory operation for its reclamation, is considered a ground for the claim to the land. Nevertheless, it cannot thereby become a ground for acquiring a title to the permanent ownership of the land as a private property excluding it from the application of the former principle. It only results in the right and title of the individual which takes into consideration the priority in the enjoying the usufruct from the land the individual has reclaimed over other individuals, on the ground of the labours and efforts he has spent on its reclamation. The right of proprietorship remains with the Imām and of his right to the imposition of the tax upon the reclaimer of the land,

[1] By this we learn that an explanation as to the Imām's ownership in its entirety is possible from these texts, on the basis of its being a rule of the canon law and on being ownership in an obstruct sense, so long as it is set upon the natural form of the land wherever it be and will not be deemed to be in conflict with anyone else's owning a piece of land by legal reason which take in and apply to the natural formation of the land in its totality such as its reclamation etc. So there is no need of interpreting ownership as it occurs in these texts and consider it as an expressed matter and not by legal ruling although this interpretation is explicitly in conflict with the context of these texts for, look at the tradition reported by al-Kābūlī, how it declares the matter that the whole of the land is the property of the Imām and ends with the dictum to Imām belongs the right to impose tigs tax on the one who reclaims the land and recultivates it. The Imām's imposing the tax or remuneration alloted to ownership proves explicitly that ownership is taken in its legal sense which these traditions regulate and not in their spiritual sense.

according to the juridical text as transcribed by the great jurist authority, ash-Shaykh Muḥammad al-Ḥasan, aṭ-Ṭūsīi when he stated in the chapter ''Jihād'' of his book, *al-Mabsūṭ* ''As for the dead land they do not constitute a part of the *ghanīmah* (booty). They belong to the Imām. The one who reclaims them, will have the priority of right to his making use of them and the tax thereon will belong to the Imām''. We have quoted this text previously.

The right and claim of the individual to the land which his reclamation of it confers upon him continues so long as he puts in labour to keep it renewed. However if his labour on it leads to its exhaustion and the land needs a fresh labour on the part of its keeper to restore it to its cultivability. The individual cannot retain his right to it except by keeping it continuously alive and putting in the necessary labour and efforts to that end. However if he neglects it and avoids cultivating it till it becomes a waste land his right ceases.

Now we are able to fully grasp and determine the general outlook. The land is by its nature the property of Imām and no individual possesses the right to its permanent ownership nor any right to an individual appropriation of it except on the basis of the labour the person spends on its tillage and fructification and that this right that the individual earns as a result of his spending his labour on rendering it tillable and raising crop on it, does not prevent the Imām from imposing tax duty on the reclaimed land for benefit of the wholesome and sound humanity to share in the benefit derived from it; and that this does not come in conflict with the Imām's forgoing of this tax or duty occasionally or under certain exceptional circumstances as stated in traditions of *taḥlīl*.

This is the outlook of Islam towards the land as it appears to us, before bringing up political factor into the field. Indeed this outlook is competent to solve the contradiction which exists between the supporters of the view of individuals' owner-ship of the land and the opponents of it, for the ownership of the land is one of the social matters which has played an important role in the human thought following its importance as a phenomenon which has existed in the life of man since thousands of years.

The more urgent presumption is that the genesis of this phenomenon eventuated in history of man, or became wide-spread after his discovery of agriculture, and his becoming dependant upon the land for his life. When the farmer found to be in need of settling down in specific land for a period

of time, on account of the fact that the production to be obtained from land requires time, it was but natural for him to bind himself within a certain limit, to a specific area of land to performs his labour on it and to set up therein for him a re-treat and an abode to do well in, close to his firm in order to be able to keep watch over it and to protect it. Eventually the farmer found himself tied strongly to an area of the land, bound to it with a number of bonds everyone of which sprang eventually from the labour which he had expanded upon the land and hard work he put in by which he had acquired close relation with its soil and every particle of it. It was in effect of this that the idea of appropriation was born, for it was reflecting on one side this bond which the farmer finds between it and his slaved labour which he had embodied into the land and had commingled with its existence; and on the other side, the idea of appropriation was confirming and resulting in the division of the land on the basis of sufficiency in that every individual keeps to himself the land he toils upon and sufficiency was established by the degree of his ability to cultivate it.

In this connection, it is presumed that the historical origin of this private right on a land is the labour, by which, by the passage of time it (land) has come out as an ownership.

With the Opponents of the Ownership of the Land :

The doubts which are usually stirred up by the opponents of the ownership of the land around it are at times directed to the imputation of its historical occurrence and to its roots extended in the depths of ages. At other times they hold to more than that. They treat the very idea of the ownership and the individuals title to the land as bolts from the blue (lit. sudden and unaware descent) upon the principle of social justice.

As for the imputation of the occurrence the ownership and its historical authority, it is mostly ascribed to grounds of power and domination. The count, on that score, holds that they have played their major role in the history in the wholly unjust distribution of the land and the conferment of title of rights, thereof upon individuals. Now if it is the power and usurpation and the factors of violence that are the factual justification and the historical authority for the ownership of the land and the rights of title to its ownership as human history has witnessed then it is natural that these rights are put an end and the owner-ship of the land as documented in history be regarded a

kind of robbery.

We don't deny the factors of force and usurpation nor the role they have played in history. But these factors do not explain the emergence of the ownership of the land and rights thereof (as documented) in history, for you to grab the land by forcible seizure and violence it is necessary that there be one from whom you seize the land by force, drive him off and add it to your land. This presupposes that the land which you submitted to your forcible seizure and violence had come into the possession of a person or persons, before that and it became his or their title.

When we mean to explain this antecedent right for the operations of the seizure by force it would be necessary for us to leave a side the explanation by force and violence in order to seek its reason and ground in the kind of relations established between the land and the right and the title of its owners to it, and on the other sides (in the fact) that the person who we suppose grabs the land by force, could not have been by and large a landless, outcast without shelter but, in a more acceptable form, a person capable of working on an area of land and rendering it fruitful; his abilities and means gradually would have enlarged and he would have taken to be think himself of grabbing fresh land by violence. So then there is before force and violence the productive labour and right and title established on the basis of labour and fructification.

The nearest thing to acceptance, when we visualize a primitive tribe settling on an area of land and beginning its agricultural life would be that every individual thereof occupies an area of that land according to his means and abilities and labours it to render it fruitful as well as to enjoy the benefits of its yields. From this division which was begun as a division with an idea of labour since it not being possible for all the cultivators to be share holders of every span of it — there would have arisen the private rights of the individuals have dawned right to the land which exacted from him his utmost exertions and absorbed his labour and toil. It is after that the factors of force and violence would have appeared, when the one with more might and power would have taken to raiding the lands of others and grabbing their farms from them.

By this we do not mean to justify rights and private owner-ship of the land as come by in history, but our aim is to set in prominence the statement that it is the reclaiming of the land on the greatest presupposition — which is the sole primary ground and reason which is recognized by the natural

societies as the source of the individuals right and title to the land which his labour has reclaimed and laboured to raise crop in it. All other grounds are secondary factors, which social conditions and complexes have generated which have rendered the primary societies stranger to its indigenous form and its instinctive inspiration.

The primary ground gradually lost its historical consideration during the course of the growth of these secondary factors and passion outbade for ascendency over nature till the history of the private-ownership of the land was filled with various kinds of injustice and monopoly. The land became scarce for the mass of the people in proportion to it became ample for those among them who were fortunate.

Islam restored consideration of the establishment of owner-ship of land to its indigenous ground since it made reclamation the sole source for the acquiring of the title to it, and put an end to its acquisition on all other grounds. In this way Islam revived the practice of nature the land marks of which the industrial man had well nigh effaced.

This is about what has been connected with the imputation of the historical authority of the ownership of the land. But there is an imputation which is more cogent and more weighty. It is an imputation of the very idea of the ownership and the title to its private ownership right, identically and in a general way as has been affirmed by some of the modern doctrinal trends, like agricultural collectivism. And what we hear generally in this connection is, ''Truly the land is a natural wealth. Man has not manufactured it but is one of the gifts of Allāh so it is not right that one man enjoys its usufruct over others.''

However, whatever may be said in this connection, the Islamic form we have presented at the beginning of this topic will remain over and above every dialectical imputation for we hold the view that the land looked at from (the point of) its natural shape as it existed when this gift was delivered to man from Allāh the Supreme was not a property of anyone of the individual men nor had anyone any title to its ownership but was the property of the Imām in his capacity as holder of the office of Imāmate and not in his personal capacity. The land, according to the economic theory of Islam about land, does not cease to be the property of the Imām nor does the land become the property of any individual by violence and grabbing of it, and for that matter not even by reclamation. Reclamation is considered only as a ground of the individual's right to the land. So if a man hastened to

proceed in a legal way to restore the land to its arability and expends his labour and energy it would be unjust to treat him as regards his right and claim to the land on the same level as the claims to it of others who have conferred no toil or effort on it, nay not so, rather his claim to it and to its usufruct should be considered prior to all these others.

Islam confers upon the cultivator of the land a right to make use of it as his own rather than to anyone other than him; and on the side of theory allows the Imām to levy a tax on it for the whole of the beneficiary humanity to have a share of profit drawn from the land by way of the utilizing of this tax.

When the right to have and hold the land of Islam is established in the view of Islam, on the basis of the labour, which the individual expends on the land, this right is lost *de fecto* when the soil of the land becomes exhausted by that labour and calls for more effort to maintain its continuous fertility and productivity, but if the owner of the land refrains from restoring it to cultivation and neglects it till it becomes a waste land, then in that case the relation of the land with the individual who was cultivating it is, under this circumstances cut out on account of its legal justification having cased when he drew his right and title to it.

The Political Component of the Ownership of the Land :

Now that we have wholly conversed the Economic Theory of Islam regarding the land, it is incumbent upon us to bring to light the political component which is latent in the general Islamic outlook about the land, for Islam has recognized the political side of the action of the reclamation of the land which is by its nature an economic act. The political action which is embodied in the land and gives the doer a right to it is the act in accordance with which the land centres in to the possession of the Islam.

In fact the land's casting in it lost with and the contribution of its share in the Islamic life and its material prosperity is occasioned at times by an economic factor. It is the exertion expended by the individual on the reclamation of the land which comes into the possession of Islam in order to enfuse life into it and make it contribute its share in production. Likewise it is occasioned, at some other time, by political factor. It is that action on account of which the addition of a live land and fertile to Islam is accomplished. Either of these two action, has been met with its own

consideration in Islam.

This action which results in the inclusion of a live and fertile land in the possession of Islam, is of two sorts since the land is at times conquered by *jihād* at the hand of the Muslim army and at other times, by the voluntary surrender of it by its people.

If the addition of the land in the possession of Islam and the casting of its lot with the Islamic life were the result of conquest, then the political action here will be considered the action of the whole nation and not an action of a particular individual, the whole nation for that reason, become the owner of the land and on that account the principle of the public ownership will be applied to it.

But if the inclusion of the fertile land and the casting in of its lot with the Islamic society was brought about by way of the surrender and acceptance of Islam by its owners, then the political action here was the action of individuals and not the action of the nation. On account of this Islam recognizes here the right of the individuals in respect of the land in a cultivated state which they surrendered to it and allows them the right to retain possession of it.

Thus we learn, political action plays a part in the Islamic general outlook toward land, but it does not strip it off its non-individuation character of ownership, if the action happened to be a collective action in which the nation contributes by various kinds of its share, like war, the land in that case comes to be the common ownership of the nation. The common owner-ship of the nation agrees in essence and social significance with the state-ownership even if the state-ownership is more broad based and wider in scope inasmuch as the ownership of nation in despite of its being a common ownership it is so within the orbit of the nation — but it is in any way exclusive to the nation, and it is not valid in proper to avail of it for any other purpose than for the common good of the nation, while the land belonging to the state-ownership can be availed of in a wider orbit by Imām. Hence the collective political action in connection with the fertile land conquered by the Muslim has caused to be resulted in its being placed in Islamic orbit instead of a wider human orbit and has not stripped it of its non-individuation character of ownership in any way. However, the land loses this non-individuation character of ownership and is subjected to the principle of private-ownership when the political action happens to be an individualist action like the individuals' surrender of their lands to Islam.

In the light of this we learn that the basic sphere for the private ownership of the land in possession in the Islamic legislation is that kind of land which was the property of the owners according to the social orders in which they lived before Islam and afterwards responding to the call of the Islamic army, had joined voluntarily its fold or had made peace with it, because the *sharī'ah* respects their ownership and acknowledges their rights to their properties.

In fields other than this the land is regarded a property of the Imām and *the sharī'ah* does not acknowledge the individual's appropriation of the possession and control of the land. However the individual can acquire a private right to it by way of rendering it fit for tillage and fruitage according to the opinion of ash-Shaykh aṭ-Ṭūsī already stated. This right, even though it does not differ from our present day conception of ownership differs from it theoretically, for as long as the individual does not possess the ownership of the land, and as long it is not removed from the orbit of the Imām's ownership, it shall be open to Imām to impose land tax on it as stated by ash-Shaykh aṭ-Ṭūsī and even though we are not made responsible for the payment of it on practical side on account of the tradition of *taḥlīl* (exemption) which gives release from it, in an exceptional manner, yet it is acknowledged theoretically.

So then the *sharī'ah* does not acknowledge private ownership of the land except within the bounds of its respect for the real ownerships in the land before the land's coming into the possession of Islam voluntarily or by way of treaty.

We can easily find political justification for this acknowledgement if we link it with the considerations of the religious call and its chief expediencies instead of linking it with its economic significance of it for the Islamic outlook; because it is necessary that those who surrendered their lands to Islam voluntarily or who submitted themselves to the control of Islam by way of treaty, the areas of land which they cultivated should be left in their hands and that it should not be demanded of them that these should be tendered to the religious state whose fold they had entered or whose authority they had been united with, or else that would form a great obstacle before the religious call and at the various stage of its spread and expansion.

Yet indespite of Islam's granting these people the right of the private ownership of the land has not granted it as an absolute right to it but has bound these people to keep their lands in unbroken state of tillage and fructification and keep on doing the work on them make it contribute its

share for the betterment of Islamic society. However if they leave the lands under them in a neglected state till it becomes a waste land, then in that case, in the opinion of a member of jurists like Ibnu ’l-Barrāj and Ibn Ḥamzah, the land will become the property of the nation.

RAW MATERIALS FROM THE BOWELS OF THE EARTH

The raw materials contained in the dry strata bowels of the earth and the mineral wealths present therein, come next in importance after the earth, as to the part they perform in the productive and economic life of a man, for in fact whatever of the material commodities and dainties man enjoys come back ultimately to the products of the land and whatsoever of the mineral wealths that are treasured up on the bowels of earth. It is because of this that most of the industrial branches depend upon the construction and mining industries whereby man obtains those materials and minerals.

The jurists usually classify the minerals into two categories: *aẓ-ẓāhir* (the open) and *al-bāṭin* (the hidden).

aẓ-ẓāhir minerals are those materials which do not require additional labour and processing in order to manifest its actual state and its mineral substance to reveal themselves like salt and oil. If and when we single out a well of oil, we will find the minerals in its actual state and would not be required to put in labour to transfer it to oil even if are required to put a great deal of labour to reach the well of the oil to open up its well and to clarify it after drawing it out from the well.

So the term *aẓ-ẓāhir* in the juristic terms is not used in its literal sense, that is open or in the sense that it does not require digging and labour to reach or have access to it but is a descriptive term to denote every mineral, which when discovered is found to exist in its actual natural mineral state irrespective as to whether man is required to undergo a great deal of efforts

to reach its well or springs buried in the depth of nature or finds it with ease and facility without any acts, on the surface of the earth.

As for *al-bāṭin* minerals, in the juristic term is every mineral which requires labour and developing work to light upon its mineral properties, like gold and iron, for the mines of gold and iron do not contain gold or iron in its completed state waiting for man to reach it as it lies hidden in its depths, and take what of it, he wishes; but these mines contain substance which requires great deal of labour and exertion to be expended on it for it to become gold and iron as the dealers in it understands.

Hence the openness and hiddenness of it in the juristic nomenclature is linked with the nature of the material and the degree of its completed nature, not with its location or nearness to the surface of the earth or in depth and bottom of the earth.

In order to elucidate this juristic technical term which has been expounded by us, al-'Allāmah al-Ḥillī has already stated in *his at-Tadhkirah*: ''By the open minerals is meant that minerals which makes manifest its essence without any labour only the endeavour and labour to reach. it, easy or arduous, and does not require disclosure, like salt, oil, coal tar, mill-stone, asphalt, China clay, ruby, antimony, stone quarry (clay-pits) and other minerals like these. By hidden minerals such minerals are meant which are not disclosed except by labour and are not reached at except after they are subjected to treatment and appliances are used for their disclosure, like silver, gold, iron, copper and lead ...''

The Open Minerals :

In respect of the open minerals, like salts and oil, according to prevailing juristic opinion, are things of common sharing between all of the people. Islam does not recognize anyone's appropriation of them and the possession of private ownership of them because they are included according to it comes under the orbit of common ownership and as such is subject to this principle. It only allows to individuals to acquire such quantity of it as would meet their need of that mineral wealth without appropriating it or taking into their possession its natural mines.

On this basis it comes to be for the state — or the Imām as the head of the people who possesses the ownership of these natural wealths as common ownership — to render them fruitful fulfilling the material condition to the

extent of the possibilities of the productions and extractions therefrom, and place the fruit at the service of the people.

Sharī'ah has absolutely interdicted undertakings by which some individuals acquire monopoly for the fructification of the minerals and even if these undertakings, carry out the work and labour of excavation to reach them or for their disclosure as they are buried in the bowels of the earth, they will not acquire the right and title to the mineral product, nor will that lead to their exclusion from the orbit of the common ownership. It allows an individual undertaking to acquire such quantity of this mineral material as meets the individual need of a person.

al-'Allāmah al-Ḥillī, already elucidating the legislative principle concerning the open minerals, in *at-Tadhkirah* has, after quoting many examples, stated: ''No one acquires the source of these minerals by reclamation and overhauling of them if it means thereby *'nayl'* by general consent'', and by *'nayl'* he means the geological stratum which consists of the source of the mineral, that is, it is not permitted to an individual to take possession of those minerals, even if he digs the well till he reaches the well of the oil, that is, its geological stratum buried in the bowels of the earth.

Also in *al-Qawā'id* when talking about the topic of the 'open minerals' it is stated as follows: ''The minerals fall into two categories: the open (*aẓ-ẓāhir*) and the hidden (*al-bātin*). The minerals which come under the category of the open are those minerals to reach which no processing is needed, like salt and oil, sulphur, coal-tar, asphalt, antimony, bituminous sub-stances, and ruby ... the closer they are to the joint partnership of the Muslim therein, such being the case they cannot be taken possession by reclamation nor will it become private property by constructing an interdictory boundary line to it nor will it be valid to rent it at fee or becoming a private property to be rented. The one who gains in the race for it, first access to its location shall not be disturbed till he has satisfied his need of it. If two persons racing for it reach it at the same time lot shall be cast when both cannot jointly participate in making use of it, there are two possibilities to decide who shall be the first by casting lots or he shall be allowed first to satisfy his need whose need of it is greater''.

The text of the many source books of jurisprudence like *al-Mabsūṭ, al-Muhadhdhab, as-Sarā'ir, at-Taḥrīr, ad-Durūs, al-Lum'ah, ar-Rawḍah* support the principle of the common ownership and the invalidity of the principle of private ownership in respect of the open minerals.

It is given in the *Jāmiʿu ʾsh-sharāʾiʿ* and *al-Īḍāḥ* that ''If any individual tries to take (from these mines) more than his requirement, he must be interdicted from doing so''.

In *al-Mabsūṭ, as-Sarāʾir, ash-Sharāʾiʿ, al-Irshād* and *al-Lumʿah* confirm this interdiction, since it is said in them: ''He who is prior let him take what his need requires''.

al-ʿAllāmah al-Ḥillī says in his *at-Tadhkirah :* ''This is the opinion of the majority of our jurists they however have not made it clear whether yearly or daily need''.

By this he means the jurists have interdicted an individual taking more than his need requires but have not limited the need which permits the taking, whether the need is for a day or year. In this the *sharīʿah* attains to the explicatory value concerning the need laying its emphasis on the illegality of individual's exploitation of these natural wealths.

Then, the open minerals in the light of the juristic text presented by us, are subject to the principle of common owner-ship. However the common ownership here differs from the common-ownership of the conquered lands in cultivated state already discussed, for the common ownership accrued as a result of the political action which the nation had carried out, that is, conquest by nation, so the conquered property cannot go beyond this, but will remain jointly common property of the Islamic nation. But in the case of the minerals all people have equal share according to many juristic sources. In talking of common ownership here the people in general is used instead of the Muslims, as in *al-Mabsūṭ, al-Muhadhdhab, al-Wasīlah* and *as-Sarāʾir.* Since in the opinion of the authors of these sources there is no proof for the mining production to be exclusive property of the Muslim nation as a whole but the property of all the people living under the shelter and in the lap of Islam.

HIDDEN MINERALS

In the juristic term those minerals are termed hidden which are not found in their finished form and state but work and processing is needed to develop and put them in their finished form, such as gold. Gold does not exist in a finished form and state but work and processing has to be done to develop and fashion it into gold. The hidden minerals, too, are in their turn of two kinds, those that are found close to the surface of the earth and those which

exist in the bowels of the earth in such a shape that access to them is not possible without hard labour and digging.

Hidden Minerals Existing Close to the Surface of the Earth:

As for the minerals found close to the surface of the earth, they are like the open minerals, the directive, in *sharīʿah* in respect of which we have presently come across.

al-ʿAllāmah al-Ḥillī says in *at-Tadhkirah* for the hidden minerals they may be either open in the sense that they exist close to the surface of the earth or on it so as to be picked up by hand or they may not be open. Now if they are open then they too cannot be owned by reclamation as has been said already.

So, then Islam does not permit appropriation of mineral materials which happen to be existing close to the surface of the earth as a private property while it lies in their mines, pits or beds, but allows every individual such quantity as he can take extract or take into his possession provided the quantity does not exceed reasonable limits nor reaches the degree in which the individuals commandering and helping himself to them becomes socially injurious and occasions putting others to in-convenience or in straits as has been specified by the jurist al-Iṣfahānī in *al-Wasīlah* we say this because we do not possess a sound text in *sharīʿah* indicating taking control or possession will constitute, always and under all circumstances — a ground for the ownership of the mineral wealths, sequestered and taken possession of irrespective of whatever the amount of it be or whatever the extent of the effect of their sequestration will be upon others. All that we know in this respect is the only one thing: that the people in the legislative age were given to the practice of satisfying their requirements of the mineral materials found on the surface of the earth or close to it by taking into their possession these materials in such quantities that would answer their purpose and need of them.

However the quantities they could extract and take possession was, by the nature of the things, were on account of the slender productive and extractive means they could command. Hence man's indulgence towards that practice common at that time cannot constitute an argument as to *sharīʿah* sanction of the individual's appropriation of whatever quantity he

could take possession of even if the possessed differed in quantity, that is the amount extracted and secured, or in quality that is its effect upon others, from the quantity secured and its effect on others when this practice was commonly prevalent during the legislative age.

And even to this day and within the limits of the open minerals in the juristic sense and the hidden minerals existing close to the surface of the earth, we find that the jurists do not permit them minerals as a private property, but permit someone to take a reasonable quantity of the minerals as would meet his need, thereby leaving wide room for the use and enjoyment of them on a wider scale than their monopolistic exploitation by private individual undertakings.

The Latent Hidden Minerals :

As for the minerals which are concealed in the deep bowels of the earth they call for two kinds of efforts (1) efforts to search for them and to dig to get at their bottoms; and (2) the effort spent on the material itself to refine and develop it and to bring out its mineral properties. These are such minerals as gold and iron. Let us apply to minerals of this group the name of the latent hidden minerals.

A number of theories have been tossed up in respect of these hidden minerals in the Islamic jurisprudence (*fiqh*) for there are those who hold the opinion that they are the property of the state or Imām by virtue of his office and not as a person, of those who hold this opinion are al-Kulaynī, al-Qummī, al-Mufīd, ad-Daylamī, al-Qāḍī etc. Their belief is that minerals are like *anfāl* and they are the property of the state. Then there are those who hold the opinion that they are of the nature of the joint property shared in common by all the people, that is, they are of the nature of public-ownership. Those who hold this opinion are, as reported, al-Imām ash-Shāfi‘ī and many of the Ḥanbalite *‘ulamā’*.

Concerning the process of the discovery of the economic doctrine we have been pursuing, it is practically of material importance for us to study the legislative form of the ownership of these minerals and to find out as to whether it is of the form of public-ownership or of state-ownership or of any other form. So as long as it is agreed that these minerals by the nature of their shape bear the general social stamp-mark and belong to no particular individual. Hence a study of the kind of ownership will remain a formal

inquiry not having connection with our objective. But the material thing which it deserves the inquiry to know as to whether Islam would permit the removal of the mines of gold and silver from the field of the common wealths, and bestow upon an individual who digs up a piece of earth and discovers the mineral the ownership of the minerals, he discovers.

We have seen in the case of open minerals and hidden minerals which are close to the surface of the earth that the *sharīʻah* according to the opinion of the jurists in common (*jumhūr*) — has not permitted appropriation of them as private property. It has permitted every individual to take such a quantity of minerals thereof according to his need and requirement as would not be hurtful to others. Therefore, of necessity we should learn the stand-point of the *sharīʻah* concerning the hidden minerals and make plain the extent of its agreement or disagreement with its stand-point in respect of the other minerals.

So then the problem is, whether can an individual acquire private property of the gold and iron mines, by discovering them through excavation or not.

The usual reply of the jurist to this problem is in the affirmative. They hold that the ownership of the mines can be acquired by their discovery of them through the operation of digging.

Their authority for this opinion of theirs is that discovering a mineral through excavation is a kind of reclamation. The ownership of the natural yields are acquired by reclamation. Likewise it is a mode of taking into control and possession. And control and taking into possession is considered a ground for ownership of the natural wealths in accordance to their different forms.

When we examine this opinion from the point of the economic doctrine, we must not do so apart from the reservations which it is hemmed in and the limits which were imposed upon when it permits ownership of the mine to the one who discovers it.

The ownership of the mine which the discoverer of it has succeeded in coming upon, does not according to this opinion, extend in the depth of the earth to the veins of the mineral and its roots.

Only that material which the digging reveals is included in his ownership. Likewise his ownership does not extend horizontally outside the limits of the pit which the discoverer has constructed. This part is what is termed in juristic parlance the precinct of the mine for others.

It is clear that these divisions of the ownership are greatly restricted and narrowed and permit any other person to carry out digging operations at another place of the very mine itself and if he sucks up, in fact, the very springs and roots which the first discoverer sucks up, because the first discoverer does not own its veins and springs.

This limitation as to the ownership of the hidden minerals is made evident by those who believe in it in a number of juristic texts. al-'Allāmah al-Ḥillī says in *al-Qawā'id:* ''If a person digs and reaches the mine he does not get the right to prevent another person from digging it from another side. If he — the other — reaches its vein, it is not for him — I mean the first digger — to prevent him for he possesses the place which he has dug up and its precinct (*ḥarīm*)''.

He says in *at-Tadhkirah* — while explaining the range of ownership — ''If the area dug is widened, and what is obtained is not found except in the middle part of it or at a portion of the sides, his property of it will be confined to the location where the material is found but just as he becomes the owner of it, he becomes the owner of what is by and about it, what may fitfully be described as its precinct and that to the extent of the place on which stand his assisting hands and his animal.

''Concerning the validity of that digging that is digging from another place — is not prohibited — to another person even if he reaches the vein irrespective of whether we say or do not say that the mine is his for if he at all to own the mine he owns the place he had dug up but not the veins which are contained in the earth.''

These texts restrict the ownership within the confines of the dig out pit and the area surrounding it to such an extent as would facilitate carrying out of the operation of extraction but do not admit extension of area to more than that either horizontally or vertically.

If we add to this restriction placed upon it by the jurists who uphold the belief in the ownership of the mine, the principle of invalidating the disuse which prevents the individuals who perform the operation of digging of it and the process of revealing its contents from freezing the mine and putting it out of use, and decree its seizure from them when they abandon it and leave it neglected.

Yes, when we add up these restrictions we will find that the belief in ownership which allows to appropriate the mine within the confines of the restrictive limitation, a strong ground of denial of the private ownership of

the mines from the side of positive results and the lights which they throw upon the theoretical discussion of the Islamic economics because the individual is not allowed by the directive ruling of these restrictions the appropriation of the mineral product except only within the confines of the pit dug up by him and is confronted, from the very commencement of his digging operation, with the cautioning threat of the seizure of the mine from him if the miner block the mine, breaks off the work and freezes the mineral wealth.

This category of ownership differs, in all its clarity, from the ownership of the natural public utilities found in capitalist doctrine of economics, for this kind of ownership does not go beyond by a great degree, from being a mode of the distribution of labour among the people and it can neither lend to the creation of individualized monopolistic enterprises like those of the undertakings which dominate in the capitalist society nor can it become an instrument for acquiring authority and control over natural public utilities and monopoly of mines and what they contain on natural wealth.

Over against this belief in the ownership (of the mine) which usually prevails in the juristic media there is found a trend which denies an individual's appropriation of the ownership of the mines, even within the limits recognized by the jurist who up-hold such a belief.

The juristic trend takes help from the controversial arguments and holdings of the believers in the ownership (of the mines) for the justification of the denial of it. It does not determine to make these jurists admit that the opener of the mine owns the mine of the basis of reclaiming it by opening it or on the basis of his holding it in his possession and his having control over it, because reclamation does not establish in *sharī'ah* a special right on the basis of it except in the case of the land according to the text in which it is said: ''Whosoever reclaims a waste land does acquire the property of it'' Since the mine is not a land so that the text may comprehend it. The argument is that when the jurists discussed the precepts relating the lands in cultivated state acquired by conquest and said that they are the common property of the Muslims they did not include in this category of ownership the mines found these lands thereby acknowledging the fact that mines are not lands.

Similarly no proof is found in the *sharī'ah* as to the fact that a control and holding in possession constitutes a ground for the ownership of natural

resources.

On the basis of this juristic trend an individual cannot avail to take anything from the mine so long as it is in the mine. He can only take possession of material which he extracts from it as his own private property. This would not mean that relation to the mine does not differ on the legislative side, from the relation of any other person to it, on the contrary in despite of the fact that he would own the mine yet he would be deemed legally better entitled to enjoy the benefit of the mine than any other person and to carry on the work in the way of digging of the mine which he has dug up for its opening it up on account of the fact that it was he who created the opportunity of utilizing the mine in the way of that digging on which expended his effort and his labour and penetrated to the mineral material lying in the deep bowels of the earth. Hence he is entitled to prevent others from making use of the pit, to that extent of removing the obstacle; and it is not permitted to anyone to make use of the pit in such a manner as would put obstacle in the way of the pit-owner's reaching the mineral material.

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In the light of whatever the juridical texts and theories about (ownership of) mines, we can educe that the miner, in the pre-dominant juridical opinion, jointly shared common properties and are subject to the principle of common-ownership. That is no individual shall be allowed to appropriate the veins and the sources of the mine as they like sank deep and shrouded in the bowels of the earth. The individual's property right in respect of them mineral material contained therein is allowed to extend only to the extent of the vertical and horizontal dimension of the pit. However, it constitutes a locus of difference between the prevalent juridical opinion and the juridical trend contrary to it. In the prevalent juridical opinion, the individual is given the right to acquire the mine within those boundary limits in case of mine latent hidden mine, and in the contrary juridical trend, the individual is given the right to own as his property only such quantity of the material as he extracts from the mine and he is entitled to prior claim to the utilizing of the mine and the availing of digging of the pit for the sake of it to anyone else.

DOES OWNERSHIP OF MINES FOLLOW THE OWNERSHIP OF THE LAND?

Until now we have meant by the mines which exist in a free land, which belong to no particular individual. The result we arrived at from our discussion we have educed a while ago. Now it behoves us to observe as to whether this result includes the mines which exist (found) in a land which is the private property of a particular individual or they become the property of that individual in the sense in which the land is his property.

The fact is that we find no preventive to the application of the result arrived at in our discussion concerning these mines, unless there exist a necessary consensus (*ijmāʻ taʻabbudī*) to the effect that the presence (existence) of it in the land of a particular person is not a sufficient ground of his appropriation of it as his private property from the juridical point for we have learnt in the previous discussion that the title of the individual to the appropriation of the land arises on two grounds viz reclamation and a country's entering into *Dāru ʼl-Islām* by its people's voluntarily surrendering the land. Since reclamation results in entitling the reclaimer to have a claim upon the land he has reclaimed and the person's voluntary surrender of his land renders the land his property. The effect of neither of these ground extends to the mines existing in the bowels of the earth, but only to the earth which contains them in accordance with the *sharʻī* argument concerning either of them. The *sharʻī* argument in regards to reclamation is the legal text to the effect that ''whosoever reclaims a land he has the best right and title to it. He shall have to pay tax in respect of it''. It is clear that this text bestows upon the one who reclaims the land a title to the land he has reclaimed not to what of the riches which lie yet hidden in the deep bowels of the earth.

As for the *sharʻī* argument about the property of the individual belonging to the country the people of which have voluntarily surrendered the land, it is that Islam protects their blood and property so he who embraces Islam, has his blood protected and his property which he possessed before he embraced is left to him. This principle is applied to the land itself and to the mines which are contained therein. The reason is the person who embraced Islam did not possess those mine before he embraced Islam so that they may be protected to him in other words the principle of protecting the blood and property in Islam does not legalize

new ownership. It gives protection to the person, for the reason of his joining the fold of Islam in respect of those properties which he possessed before he embraced Islam. And mines do not come under the category of these properties for him to keep in his possession by his embracing Islam. Islam honours and recognises his land which formerly belonged to him. So it remains his property after Islam and is not taken away from him.

And there does not exist in *sharīʻah a naṣṣ* (text) to the effect that the ownership of the land extends to each and all of the riches contained therein.

Thus we learn that unless there exists a consensus to the contrary, it is juridically possible to say that the mines existing in possessed or owned land are not the property of the owner of the lands, even if when they will be made use for productive purpose the owner of the land's right will have to be taken in consideration since reclamation of the mine and extraction of the material contained therein rests with the free will of the land owner.

IQṬĀ' (FEUDAL INSTITUTION) IN ISLAM

Among the technical terms of Islamic law connected with land and mines, there is found a word, the *iqṭā'* (fief). We find in the talk of many of the jurists the statement that the assigning of this land or this mine belongs to the Imam along with the difference between them as to the limits within which it is permissible to the Imām to do so.

The word *iqtā'* (fief) is so conditioned to in the history of middle ages, in particular the history of Europe, to well-defined conceptions and institutions as to cause a result of it, to evoke in the mind all of those conceptions and institutions, which define the relations between the owner of the land (the feudal lord) and the tillers of the soil (his vassal) and regulate their respective rights in the ages during which the system of feudalism was dominant in Europe and in different parts of the world.

Indeed since these connotative evocative and reflexive conditionings are the linguistic outcome of cultures and social doctrines which did not exist in Islam, nor with which Islam was acquainted with equally as to whether or not Muslims in some parts of the Islamic homeland, having been lost to their fundamental roots and cut off from their basic moorings and having become submerged in the non-Islamic current, had become acquainted with them, it would not be reasonable for us to burden the word *iqṭā',* as used in Islam

with this linguistic meaning proximate to it.

We neither intend nor are interested in giving a talk about historical dregs of the word nor the legacy it is burdened with as a result of specific periods of Islamic history, it not being our aim to institute comparison between the two senses of the world. On the contrary we do not find any justification at all for instituting comparison and contrast between the sense of the word *iqṭā'* as used in Islam and the sense of the word which the feudal orders reflex upon it so as to cut off theoretically the relationship between them just as to make them distinct from each other historically. Our only aim is to expound the word from juridical point of view for the sake of defining the complete shape and form of the precept of the Islamic *sharī'ah* as to the distribution which is consolidated and crystallized through the process of discovery pursued by this book.

Iqṭā' is defined by ash-Shaykh aṭ-Ṭūsī in *al-Mabsūṭ*. In fact it is Imām's granting a person the right of working a source of natural wealth, work thereon being deemed to constitute a ground of an appropriation or acquisition of a specific right therein.

In order to fully comprehend this definition, we should bear in mind that it is not permissible for the individual to work in all the sources of raw source of wealth unless and until he is permitted by the Imam or the state to do so in general or in particular as will be stated in a subsequent chapter when we will take up the study of the principle of the state's intervention which makes feasible supervision of the production, the distribution of work and the opportunities in a sound and valid manner. Hence it is natural for the Imām to undertake the work of turning to good account those resources by himself doing so, or by bringing into existence a joint enterprise or giving individuals opportunities to turn them to good account, in accordance with the objective conditions and productive possibilities which would be fulfilled as regard the society on the one hand and demands of social justice from Islamic point of view on the other.

In respect of a raw material, for instance, like gold, it may be held preferable for the state to undertake the work of the extraction of it and to make readily available goodly extracted quantities for the service of the people or that the Imām finds such a thing practically not possible on account of the non-fulfilment of the productive possibilities of extracting huge quantities of them at the initiation of the work on the part of the state, so he prefers another mode of production. The per-mission to individuals

or groups to reclaim the mines of gold and to strive to extract from them as much large quantities of gold as possibly could be extracted therefrom. It is thus that the Imām fixes up in the light of the objective reality and the adopted maximum of justice, the mode of turning to good account the raw material from the natural resources and the general policy of production.

In this light we can understand the role of the *iqṭā'* and its juridical terminology. It is a mode of turning to good account raw material the Imām adopts when the Imām sees it is the best mode for the utilization of it under a definite circumstances. So the Imām's giving a person *iqṭā'* of the mine of gold to a person means permission to him for reviving that mine and for extracting the material from it. Therefore it is not permissible for the Imām to grant a person the *iqṭā'* of what is beyond his means and ability to manage and what he is unable to turn to good account as has been stated textually by al-'Allāmah al-Ḥillī in *at-Taḥrīr* as also by Shāfi'ī, because *iqṭā'* in Islam means permission to an individual to turn to good account by work the riches assigned to him by way of *iqṭā'* and if the individual is not able to turn it to good account by working on it, the *iqṭā'* will not be lawful.

So this definition of *iqṭā'* reflects explicitly the nature of it (*iqṭā'*) as a mode of the distribution of work and fructification of the nature.

Islam does not consider *iqṭā' a* ground for the appropriation of the individual assignee of the natural resources granted to him by the Imām that would be misconstruing its character as a mode of work fruitful and the distribution operative abilities *iqṭā'* only gives the individual assignee of it, the right to put to good account the natural resources, and this right means that it is his duty to work on that natural resources and that no other person will be allowed to prevent him from doing so, or to work upon it instead of him as has been explicitly stated by al-'Allāmah al-Ḥillī in *al-Qawā'id* saying therein: *''Iqṭā'* imports *ikhtiṣāṣ* (an exclusive right)''. In the same way ash-Shaykh al-Ṭūsī writes saying in *al-Mabsūṭ*:''If the sultan gives to a man of his subject, a piece of dead land by way of *iqṭā'* (fief) he becomes more entitled to it than any other person by reason of the sultan's giving him the *iqṭā',* without any objection.''

So *iqṭā'* is not a process of appropriation, but a right and a title which the Imām confers upon the individual about a natural raw resources, which makes him better entitled than any other person to avail for productive purpose a piece of the land or the mine assigned to him which is determined according to his ability and means.

Evidently giving this right is necessary as long as *iqṭā'* is, as we have learnt, a mode of distribution of operative abilities and labour forces with the intention to obtain better yields from the natural resources; since without this right being given, *iqṭā'* would not be able to play this role of it in accordance to a general planning unless every individual enjoys the right to invest on those resources assigned to him by *iqṭā'* and has the preference over others by virtue of it to revive and work on it. So this right leads to guarantee regulating of the distribution and the success of *iqṭā'* as a mode of the profitable productive use of the natural resources and their distribution between the working forces on the basis of efficiency.

In this way we find that the individual has no right from the moment the Imām's assigning to him the *iqṭā'* of a piece of land or a portion of mine and until he starts the operation i.e. to the interval between the intervening period of his preparing and making ready the conditions for the starting of the work, save the right of carrying out his work in the assigned limited area of the land or that definite portion of the mine which he is given permission to reclaim and to put into productive use, and the right of preventing others from competition with him, so as not to disturb the mode which the Imām pursued in regard of obtaining production from the natural resources and the distribution of energies thereon on the basis of sufficiency.

This period which intervenes between the grant of the *iqṭā'* and the commence of the operative work must not be delayed for *iqṭā'* does not mean the individual's proprietary right in regard of the land or the mine but the distribution of an overall operative work for the exploitation of the natural resources on the basis of efficiency. Therefore, the assignee of the *iqṭā'* has no right to delay the engagement period of work without justification because his delay in assuming of the work becomes an obstacle to the success of the *iqṭā',* in its character as a productive use of the resources on the basis of the distribution of work; just as another person's interference in his work, after he has already been appointed with the duty on behalf of the state to that particular portion given to him, could also be an obstacle to the *iqṭā's* performing its Islamic role.

Therefore, we find ash-Shaykh aṭ-Ṭūsī stating in *al-Mabsūṭ,* ''If he (the assignee) delays the reclamation, the Sultan will tell him you may either reclaim it or leave it for another person so that he may reclaim it. If he puts excuse for delay, and prays the Sultan to give him time, the Sultan may do

so. But if he has no excuse for the delay and the Sultan gives him the two options, and he does not do so the Sultan will take it away from his possession''.

It is given in the *Miftāhu 'l-karāmah:* If he (the assignee) pleads his being hard up and prays for time to till better days, his prayer will not be taken into consideration for that would be indefinite delay and would entail prolongation, leading to abandonment.

This is the whole of the role of the *iqṭā'* and its effect during the period intervening between the grant of it and the commencement of the work. It is this intervening period wherein *iqṭā'* produces its effect from the point of *sharī'ah* and this effect does not go beyond — the right of work, as we have learnt, which makes *iqṭā' a* mode which the state avails under certain circumstances for fructification of the natural resources and the distribution of the operative powers over these resources to the extent of their efficiency.

After the individual's carrying out the production work on the land or the mine, the effect of the *iqṭā'* does not remain from the point of *sharī'ah* but work takes its place for the individual will have that much right to the land or the mine what the nature of the work fixes in accordance with the details which we have come across.

This is the truth about *iqṭā'* which shows it as an Islamic mode of distribution of work which we find establishes the truth by proof adding to the previously given texts and precept as to the definition of the shape *sharī'ah* has formed of *iqṭā'* for the resources of nature to which *iqṭā'* is permitted on account of working on them confers to right or a kind of appropriative possession of them are termed in juristic parlance dead lands for *iqṭā'* in respect of those natural utilities, is not legally valid or permissible in which no right or a special claim is generated by virtue of work as per verdict by ash-Shaykh aṭ-Ṭūsī in *al-Mabsūṭ,* illustrated by a vast number of the various ways of reporting of the tradition. The prohibition of granting *iqṭā'* of this sort of public utilities and limiting it specifically to the dead lands indicates quite explicitly the fact we have made clear and established that the function of the *iqṭā'* from the point of *sharī'ah* is only granting of the right of working up a definite natural resource for a specific purpose as a mode of the distribution of labour to be expended on those natural resources which are in need of reclamation, work and labour. As for the right and claim of the individual to the natural

resource, is established on the basis of work and labour, and not on the basis of *iqṭā'*.

However if the natural resources of public utilities are not in need of being reclaimed and worked, and therein does not lead to giving the person who works on it a specific right or title to it then *iqṭā'* in case of it is not valid or permissible inasmuch as *iqṭā'* of such a utility loses its Islamic meaning since it is in no need of work nor work has any effect therein, so that the right of work may be conferred on to an individual on the contrary restoration of *iqṭā'* in this respect of this utility will be a manifestation of monopoly or selfish exploitation of natural resources. This does not agree with Islamic concept of *iqṭā'* and its original function. It is because of this it has been forbidden by the *sharī'ah* and has limited the valid *iqṭā'* to that kind of natural resources which are in need of work.

Iqṭā' of the Taxed Land :

There remains another thing to which the term *iqṭā'* is applied in the juridical parlance. However it is not in fact an *iqṭā',* but is a payment for service.

The locus of this *iqṭā'* is the taxed land which is considered a property of the nation since it happens that the governor can grant an individual something from the taxed land and authorize him for collecting tax thereon.

This authorization is exercised by the governor though it sometimes expresses in its historical significance, and without right, process of appropriation which results in the proprietary right to the land. Yet in its juridical sense and within permitted limits does not mean any such thing, but represents a mode or payment of remuneration or compensation for work which the state takes up itself to pay to the individuals against the public services rendered by them.

In order to understand this we must call to mind the fact that the tax, that is the land tax which the state demands from the tillers of the soil, is considered a property of the *ummah* (Muslim community) following from the *ummah's* ownership of the land itself. It is, therefore, the duty of the state to spend the tax derived from the land in the general interest of the *ummah* as has been declared textually by the jurists giving example of

such interests or the providing of the administrators and judges, construction of mosques and bridges, etc., for the administrators and judges serve the *ummah.* Therefore provisioning of them is the obligation of the *ummah. As* mosques and bridges are a part of the public utilities which are linked to the life of the people as a whole, so creation of them is with the money of the people and their claims to the tax-money is valid.

Evidently providing of means to administrators and judges, and likewise the payment of any other individual for public services rendered may be made either by the state either out of public treasury (*baytu 'l-māl*), directly or may be made by giving the recipient the permission of collecting them out of the returns of some of the properties of the *ummah.* The state usually follows the second mode in case it does not enjoy a strong central administrative machinery.

In the Islamic society the payments of salaries and expense of the individuals who render public services to the *ummah* are made in cash, just as it happens in accordance with the administrative circumstances of the department of the Islamic state. These payments and salaries are paid by way of the states granting the right of control over the tax of a limited landed property from among the lands belonging to the *ummah,* and his exacting it directly from the tillers of the soil in consideration of the individual's wages for the service rendered by him to the *ummah.* So it is in this sense that the term *iqṭā' is* applied to it, but it is not an *iqṭā'* in fact but the charging of the individual with demanding his wages out of the tax accruing from a limited area of land which he obtains directly from the cultivator of that piece of the land.

The assignee to the *iqṭā'* owns the tax on the land, as a wage for the service he has rendered to the *ummah,* but he does not own the land, and there exists no basic title to its proprietary possession or to its usufruct, as such it does not go out of its being the property of the Muslim nor its being a taxed land as the jurist research scholar, as-Sayyid Muḥammad Baḥru 'l-'Ulūm has stated in his *Bulghatah* while defining this kind of *iqṭā';* that is, *iqṭā'* of tax-land, he writes: Indeed *iqṭā'* does not deprive the land from being a tax-land, for its meaning is the tax for the assignee, does not deprive it from being a tax-land.

ḤIMĀ (PRESERVED OR PROTECTED LAND) IN ISLAM

The conception of *ḥimā* obtained among Arabs from olden times. It expresses distant areas of waste land which strong people and individuals from among them used to monopolize for themselves, and would not allow others to enjoy the benefits derived therefrom. They considered whatever of energies and riches these areas contained as their sole and exclusive property or account of their having forcibly seized, and their might and power of forbidding others to avail themselves for their advantage. It is mentioned in the book named *al-Jawāhir* by the research scholar, an-Najafī that: ''It was the custom of these people in the days of ignorance that one of them when he set his foot on a fertile land he would cause his dog to bark from a surrounding hill or a plain land and then would declare as his own property all the land up to where the barking sound reached and claimed all the area, on every side to which the sound of the bark of his dog reached. It was because of this that it was termed *ḥimā*.

It is natural that Islam forbids *ḥimā* because the specific right in respect of it is based on domination, not on the basis of work and labour. So on account of this it is not permitted to any Muslim. There has come a tradition which affirms the eradication of this mode of acquiring possession and monopolistic acquisition of the natural resources. It says: There is no *ḥimā* except for Allāh and His Messenger. In some of the traditions it has come that a person asked al-Imām aṣ-Ṣādiq (a.s.) about a Muslim who had a landed estate wherein was a hill which is a salable thing among others sold to him then comes a brother Muslim, he has sheep and is in need of the hill. Would it be lawful for him to sell the hill just as he sells other things therefrom or to forbid it to him without price of it. What will be his position in this matter and what he takes? The Imām replied. It is not lawful for him to sell his hill to his brother.

The mere happening of a natural resources to come under the control and power of an individual is not considered in Islam a ground for the creation of a right and title of the individual to that resource of nature. The only *ḥimā* which Islam has permitted is the *ḥimā* of the Messenger of Allāh, peace be upon him and his progeny. For the Messenger of Allāh had preserved some places from the waste land for the general good like *Baqī',* since it was reserved for the camels of *ṣadaqah* (charity) cattles of *jaziyah* (head tax on free non-Muslims under Muslim rule) and for the horses of warriors.

NATURAL WATERS

The sources of water are of two kinds: the uncovered sources which Allāh has created for man on the surface of the earth like oceans, rivers, and the other kind of sources buried and hidden in the bowels of the earth which man gets at by labour such as wells which man digs up to get at the springs of water.

The first kind of the source of water is considered a common property shared jointly by the people. Those natural wealths are termed commonly shared properties which Islam does not permit any individual to appropriate as his own private property but allows all the, individuals to enjoy the usufruct of them, while leaving intact the character of the principals that is the actual substances and the right of ownership of them as being jointly and commonly shared. No one owns the natural sea or river as his own private property and all are allowed to enjoy its usufruct. On this basis we learn that the uncovered (open) natural sources of water are subject to the principle of the public ownership. [1]

If a person collects a quantity of water therefrom in a container, whatever kind of container it may be, he becomes the owner of that quantity of water he has collected. If he ladles up a quantity of water with a jug, or

[1] There is a popular juristic opinion, that such source found on a land belonging to an individual as his private property is accepted from the application of this principle — vide Appendix — viii,

puts it up by an instrument, or digs up a pit in a manner legally allowed and connects with the river, the quantity of water ladled up, pulled up or drawn into the pit becomes his property on account of having taken it in his custody. He cannot acquire as his own any quantity of water he has not taken into his possession of and put in labour for it. This has been confirmed by ash-Shaykh aṭ-Tūsī in *al-Mabsūṭ*. He says water *mubāḥ* (free to all) is water of sea and the big rivers like Tigris and Euphrates, and similar streams which spring up in waste-land of plains and uplands. These water are free and open to every one to make use of it as he wishes. There is no difference of opinion in this respect for the tradition related on the authority of Ibn ‘Abbās from the Messenger of Allāh already cited herein before in which it is stated. The people are co-sharer and partners in three things; water, fire and grass. If this water increases and enters into the properties of others and collects therein, they cannot appropriate it as their private property.

Then it is labour which is the basis of the appropriation of whatever quantity of water person gains control over or brings under his authority from these sources. But if water from a river finds its way to that person's land, not by his labour or efforts on his part, then in that case he will have no justification for claiming it as his own private property, on the contrary, unless he puts in labour for that purpose, that water will remain *mubāḥ* (free) to all.

As for water, source of which lies concealed in the bowels of the earth, no one can claim it as his own unless he labours, to gain access to it, carries out digging operation to discover its sources and makes it available for use. And when a man opens its source by his labour and digging, then that will become his title to the discovered spring which validates his availing of its usufruct and prevent others from interfering from his doing so since it was he who created the opportunity for the availing of the use and advantage of that spring, so it is a part of his right to avail usufruct of that opportunity and it is for none of those who did not join in his effort of creating that opportunity to come in his way of enjoying its benefit and he become more entitled than others to the spring and own its water he had striven for, because it is a kind of possession but he does not become the owner of the spring which existed in the bowels of the earth before he opened it up by his labour (vide Appendix IX). Therefore, it is his duty to supply water of it to others after he has satisfied his requirement of it gratis; and he is not allowed to demand something in return for their drinking and providing

water to their live-stok inasmuch as the substance (water) has not ceased to remain a jointly shared common property and gives its discoverer only the right of priority on account of the labour he puts in for its discovery. So when he has fulfilled his need and requirement of it, others have a right to derive benefit from it.

It has been narrated on the authority of Abū Baṣīr from al-Imām aṣ-Ṣādiq (a.s.) that the Messenger of Allah (s.a.w.a.) has forbidden *an-niṭāf* and *al-arba'ā'* . He (the Imām) said: ''So do not sell them, but lend them to your neighbour or brother (in faith). *Al-Arba'ā'* means one makes a dam for irrigating his land, till he is satisfied. *an-Niṭāf* means one has a fixed limit of time for irrigating his land to his satisfaction''. It has come in another tradition from al-Imām aṣ-Ṣādiq (a.s.) that he said ''*an-Niṭāf* means the fixed limit of time for irrigation. When you are satisfied with it, you are not allowed to sell it to your neighbour but leave it to him. *al-Arba'ā'* means dams made between lands of a (certain) group, when one of them is satisfied with the water of his dam'', (the Imām continued) ''he should leave it to his neighbour, and he is not allowed to sell it to him''. (See Appendix X)

ash-Shaykh aṭ-Ṭūsī also declares in *al-Mabsūt* the same thing that we have mentioned and makes it explicit that the relation of the individual to the spring of water is that of right and not of property despite of the fact that in his (the Shaykh's) opinion he (the discoverer) owns the well that is the pit he dug whereby he gained access to the spring of the water for he has said at every place (context) we have said he owns the well (we have meant by it) that he is more entitled to its water to the extent of his drinking need of it, his watering of his live-stock and the irrigation of his farm. After this if there remain any surplus it is upto him to give gratis to anyone else needing it for his drink and for the watering of his live-stock. However, water which he has secured in his big earthen jar or water-pot or in a tankard or in a pool or a well, that is the pit and not the substance (water) or in his manufactory or such other things, he is not obliged to give anything out of this stock to anyone even if it is in surplus of his need without any difference — because it is not its substance.

So then, the individual cannot prevent other individuals from availing of the substance in it as a natural source, within limits which do not come in conflict with his right and title to it for according to this opinion he does not own the substance itself but has a greater right to its usufruct as a result

of his having created the opportunity which facilitated to the avail-ability of the benefit of the substance. So others should be allowed to avail of the benefit of the substance in a way and to the extent it does not come in conflict with his enjoyment of its usufruct.

ANOTHER NATURAL WEALTH

As for other natural wealth they come under the category of *al-mubāḥātu 'l-'āmmah* (things permitted to all).

The things free to all are all those natural wealth which all individuals can make free use of and enjoy the usufruct of them as well as their private property, for this general permission is a permission not only for the usufruct of theirs but also means ownership of them.

Islam has laid down private proprietorship in the freely allowed things (*al-mubāḥātu 'l-'āmmah*) on the basis of work and labour for acquiring possession of them in accordance with their difference in kind; for instance, the work or labour for acquiring possession of the birds is catching of them by hunting them, that of firewood is the gathering of them, and the work of acquiring the pearls and corrals is the diving in the depth of the seas. So the taking possession of the electric powers (energies) lying concealed in the water-fall consists in the converting of these energies to the current of the flow of electricity. In this way the ownership of the freely allowed natural wealth is acquired for securing possession of it.

The ownership of these natural wealth cannot be acquired except by work so it will not suffice for their entering into the control of man unless he puts in positive work for securing them. This text is given in *at-Tadhkirah* of al-'Allāmah al-Ḥillī. If the *mubāḥ* (freely allowed to all) water increases and a part of it enter into another land it becomes the property of that man.

The Shaykh says: ‘‘He cannot become its owner just as the rain or snow falls on another person’s property and remains on his property, or a bird hatches eggs on nest and reared the youngs in his garden, or a deer sinks in the mire in his land, or a fish falls in his boat — he does not become the owner of it, but by seizing and securing’’. In *al-Qawā‘id of* the ‘Allāmah in respect of the rules of hunting ‘‘prey does not become his property by falling in the mire of his land or birds nestling in his house or a fish leaping up to his boat’’.

CHAPTER THREE

THE THEORY OF DISTRIBUTION BEFORE PRODUCTION

2 - THE THEORY

THE THEORY

We have now concluded with minute precision of the general upper structure of Islamic legislative enactment containing the main collection of the precepts in accordance with which distribution before production and the regulation of the rights of the individuals, the society and the state in respect of the natural wealth with which the universe is replete, has been accomplished.

Having conceived it from the Islamic core, we would be traversing half the distance of the path to the discovery of the theory; and there remains for us the basic investigation from the religious angle wherein we should unfold the fundamental principles and the general theories on the base of which stands the upper structure and upon which rest that concentration of the precepts which we have passed by. This will be the second half of the process of discovery which proceeds from the upper structure to the base, and from the legislative details to the theoretical generalities.

In our presentation and interpretation of these legislative enactments and precepts we have always followed a method reflecting with continuity and clearness, the strong theoretical bonds between these precepts. The same method will contribute its share in this new stage of the process of discovery and will help in availing of those important precepts in the general religious outlook we are attempting now. We shall dissect the general religious theory of distribution before production and study it in stages, and

in respect of every stage we shall take up a side of it and gather up from the previous investigations those legislative and juridical texts and precepts which reveal that side and justify it.

After we have fully mastered different sides of the theory in the light of the upper structures, every one of which is attributed to one of these sides, we would combine in the end all the threads of the theory in one composite whole and give it its general form.

1- THE NEGATIVE SIDE OF THE THEORY

Let us begin with the negative side of the theory. This side holds as we shall know to the belief in the non-existence of proprietorships and primary private rights in raw natural wealth without labour.

Its Upper Structures:

1. Islam has abolished (declared invalid) *himā*. *Ḥimā* belongs only to Allāh and His Prophet and is not lawful for any one else. By this is denied any exclusive right of the individual to a land by his having control or authority over it or his defence of it by force.
2. If the *waliyyu 'l-amr* gives an individual a land as a fief, the individual thereby acquires the right to labour on it and without the fief giving him the right of the ownership of the land or any other right therein unless he labours on it or expends his efforts on its soil.
3. The springs and roots of the mine lying deep in the bowels of the earth are not private properties and there exists no special right therein for any individual thereon, as al-'Allāmah al-Ḥillī has made clear in *at-Tadhkirah* saying: ''He does not possess the vein which is in the earth. He who reaches it from another side then he will take from it.''
4. The open oceans and rivers belong to no one in particular nor does there exist any special right for any person thereon. ash-Shaykh aṭ-Ṭūsī says in *al-Mabsūṭ*: ''Water of seas, rivers, or streams springing up in the plane or hilly waste land, all these are *mubāḥ* (free to all). Any one can make use of what he wants and how he wishes'', according to the report of a tradition on the authority of Ibn 'Abbās from the Prophet, ''People are co-sharers in three things: Fire, water and herbage''.

5. If water increases and enters the properties of the people and collects without these people having taken possession of it by any particular labour, it will not become their property.

6. If an individual does not spend efforts for hunting a prey, but the prey comes to his control, it does not become his property. al-'Allāmah al-Ḥillī in *al-Qawā'id* says, ' ' A prey does not become one's property by its entering one's land, nor a fish by leaping up to one's boat''.

7. Same is the case of other natural wealth, their falling under the control or coming to the hand of a person without any exertion on his part does not justify his appropriation of it. It is because of this that it is given in *at-Tadhkirah* ''A man does not become the owner of the snow falling under his possession merely by its falling on his land''.

Deductions :

From these precepts and their likes in the collection of the Islamic legislative enactments we have come across, we are able to know that there does not primarily exist for an individual private right in the natural wealth to distinguish him from others on the legislative level unless that be a reflection of his specific labour which distinguishes him from others in the existential reality of life. The individual does not appropriate a land if he has not reclaimed it nor a mine unless he has opened it, nor a spring of water unless he finds it first, nor wild animals unless he secures them by hunting, nor a natural wealth on the (surface of the) earth or in the air unless he secures possession of it and has spent efforts in doing that.

We see through these examples that labour which is considered in the theory as the sole basis of acquiring primarily appropriative rights in the wealth of nature, differs in its theoretical sense in accordance with the difference in the nature and kind of the wealth. Hence what is considered practically labour in respect of some of the natural wealth, and a sufficient ground for the establishing the appropriative rights on the basis of it, is not considered. Such is in respect of some other kind of natural wealth. You can appropriate stone found in the desert by securing possession of it. Securing possession in connection with the stone, in theory admits as labour and permits the establishment of the appropriative rights on the basis of it. But it neither admits securing possession as labour nor permits the appropriative rights on the basis of it *vis-à-vis,* the dead land, mine and

natural springs, so it will not suffice for you in order to appropriate a dead land or a mine or a spring of water existing in the bowels of the earth to acquire control of those wealth and join them to your possession. There is no way of acquiring appropriate rights in them but that you must embody your exertions in the land, the mine and the spring, revive the land, open the mine and extract water from the springs. We will define in the positive sides of the theory its meaning of 'labour', and the criterion it follows in the matter of describing as labour different kinds of exertions which the men carries out in the fields of nature and its wealth. When we will grasp fully this criterion, it will be then that we will be able to appreciate why while taking stone into one's possession constitutes a ground for its appropriation and possession of the land does not constitute labour nor a justifactory ground for acquiring any appropriative right in that land.

2- THE POSITIVE SIDE (ASPECT) OF THE THEORY

The positive side of the theory runs parallel to its negative side and completes it. It holds to the faith that the labour is a legitimate basis for acquiring the rights and appropriation of properties in respect of natural wealth. Hence rejection of any primary right in the natural wealth apart from the labour is a negative form of the theory.

And, faith in the appropriative right therein on the basis of the labour is matching positive form.

Its Upper Structures:

1. The land is his who reclaims and revives it, as stated in the tradition.
2. He who digs a mine till it is opened up, has a greater right and claim to it and the ownership of the quantity uncovered from the pit and such other material.
3. He who digs up a natural spring of water is more entitled to have it.
4. If an individual takes possession of a wild (*an-nāfir*) animal by hunting, wood by gathering it, or a natural stone by carrying it, or water by scooping it up in pail or such other vessel from the river it is his property by possession of custody as is texted by all the scholars.

Deduction:

All these precepts in one have' one common factor evident thing. It is this that labour is the sole source of the rights and appropriative properties in the natural wealth with which the man on all sides is surrounded yet nevertheless that we find this legal evident thing in every one of those precepts, we shall be able, by a minute study, of them and their legislative texts to discover a constant factor and two variable factors, differing from each other by the kind and the class of the wealth. The constant factor is the link of the individual's appropriative rights in respect of the natural raw wealth with the labour. Unless labour is put in, nothing is gained; and if labour is amalgamated with the natural wealth in any operation an appropriative right can be achieved, for the relation between labour and the appropriative rights in a general form is the common contents of those precepts and the constant factor therein.

As for the two variable factors, they are the kind of labour and the kind of appropriative rights which labour creates, for we shall see the precepts which establish by law the appropriative rights on the basis of labour differ from each other as to the kind of labour which goes to make it the source for the entitling right and as to the kind of entitling right which arise in respect of the land for having in possession is not considered labour in the case of the land, while the labour of taking in possession of stone lying in the desert is considered a sufficient ground for the proprietorship of it, as alluded to by us a short while ago. Similarly, we shall see while the reclamation is considered labour in respect of the land and the mine leads to only a specific right in the ownership (*raqbah*) of the land and the mine in accordance with which the individual is made more entitled to it than any other individual, but does not become owner of the land or the mine itself; while we find that the labour put in for taking possession of the stone from the desert and ladling up of water from the river will be considered a sufficient ground, from the *sharī'ah* point of view, not for acquiring only a priority right in respect of the stone and water but a right to its private ownership of it.

So there is a difference between the precepts which connect the private property rights of an individual on account of his labour and exertions as to the determination the kind of labour which produces these rights and as to the determination of the nature of those rights which rest upon labour. On account of this it will give rise to a number of questions requiring answer to

them. Then why is it, for example, that these labours of securing possession of stone from the desert and of drawing water from the river will be sufficient for the man who puts in the labour to acquire appropriative specials right therein, while this kind of labour in respect of the land and the mine, for example, will not constitute a ground for any appropriative right therein, and how was it the right which the individual earned in respect of water of the river by way of his taking possession of it from it, was raised to the level of proprietorship while it did not enable one who reclaimed the land or opened the mine to become the owner of the land or the mine, but only gave him the right of priority to the natural source of which he reclaimed. And if it was the ground for the private special rights, then why was it that when a man finds a land fertile by its nature and availing of the opportunity naturally conferred upon it, he tills it and expend labour on its tillage, he does not receive the rights analogous to the right for the reclamations, not withstanding his having put up many efforts and great labour on the soil. And how is it that reviving of the dead land became a ground for the right of the proprietorship of the land, while the exploitation of the fertile land and its cultivation did not become a justifactory ground for an analogous right for the individual?

Indeed reply to all these questions which the difference of the precepts of Islam in respect of labour and its right has given rise to depend upon the determination of the third side of the theory which expounds the general basis for the estimation of labour in the theory. In order to determine this side we should collect those different precepts in respect of labour and its rights which have given rise to these questions and add to it all the analogous precepts which resemble them, and formulate therefrom the upper structure by way of which we will arrive at the determination of the outstanding main features of the theory with clarity and precision because the body of these different precepts in fact reflects the determinate main features of the theory we shall decide them now.

3- VALUATION (ESTIMATION) OF LABOUR (WORK) IN THEORY

1. If the individual carries out reclamation work on a dead land and renders it fit for cultivation or utilization, that shall be his right and title to the land he has reclaimed. But he shall have to pay tax on it to the Imām

unless he is exempted from the payment of it, as has been stated by ash-Shaykh aṭ-Ṭūsī in the book of *''Jihād''* of his work *al-Mabsūṭ* conformably to sound texts of traditions, the burden of which is that he who reclaims a dead land has prior right to the land he has reclaimed and rendered fit for cultivation. However he shall have to pay tax on it and suitably to the right which he earns to it by virtue of his reclamation of it, no one else shall be allowed to seize it from him as long as he holds his right though he does not own the land itself.

2. If the individual carries out the work of tilling a naturally cultivable land, makes use of it and raises crop on it he shall have the right to retain the land in his possession and the others shall have no right to hinder his utilization of land and enjoy its usufruct so long as he continues exercising this right of his. But he acquires no ampler right than this, that is, this right does not invest him with the authority of the monopoly of the land and hindering another person's utilization of the land when he (himself) does not make profitable use of it. On account of this the right which results from the cultivation of a land naturally fit for cultivation differs from the right which accrues from the reclamation of a dead land since the right which accrues from the reclamation confers upon the reclaimer the power and authority to forbid any other person's getting control of it without his due consent and permission as long as the signs of life existing in the land, irrespective of the fact as to whether or not the reclaimer practises actual (profitable) utilization of it or not, whereas the right which the individual earns as a result of the tillage of a land naturally fit for cultivation does not go beyond the right of priority to the land so long as he pursues profitable utilization of it. If he stops doing that any other person shall have a right to avail himself of natively gifted utility of the land and to play the role of the first.

3. If the individual exhumes a land to find a mine and reaches it, another individual shall have the right to avail himself of the advantage of the self-same mine when he does not hinder him, and that, for instance,. he digs up the mine from another place and get at the intended material of the mine as has been specified by the learned divine (al-'Allāmah al-Ḥillī) in his book, *al-Qawā'id.* In the event of his exhuming and reaching the mine he shall not have the right to prevent another individual's digging from another side of it, nor, in the event of the later's reaching the vein, he shall have the right to hinder that other persons availing of its usufruct.

4. ash-Shahīd ath-Thānī has stated in his work *al-Masālik* in respect of a land which the individual has reclaimed but which afterward had gone waste that such a land was originally a *mubāḥ* when it had been left neglected and became again a waste land, it would revert to its previous status, and would be of *mubāḥ* property, just as water drawn from the river Tigris and then thrown back into it. Reclamation being the cause of its ownership, on the cause becoming extinct the effect in this case the ownership — became extinct. This means that if the individual reclaims the land that becomes his right and title to the land and that right continues as long as the reclamation remains physically therein. When the reclamation becomes extinct, the right becomes void.

5. In the light of this if the individual exhumes a land to find a mine or excavates it to open a spring of water and if he afterwards leaves it lying neglected till the excavated pit is filled up or the seams of the dug earth are joined up by natural causes, another person comes along, and begins excavatory work till he reopens the mine, it shall constitute his right to it and the former exhumer of it will have no right of preventing others to make use of it.

6. Holding possession or custody of property does not constitute a ground for giving ownership or rights to the natural resources *viz*. the land, the mine and the springs of water, such an ownership right amounts to *ḥimā* and *ḥimā* is valid only for Allāh and His Messenger.

7. Wild and refractory animals are owned by overpowering and breaking down of their resistance by hunting them even if the hunter has not secured them in hand or in his trap, actually possession being not necessary for the ownership of a prey. The learned divine al-‘Allāmah al-Ḥillī affirms in the *al-Qawā‘id* that the grounds for the property to the prey are four, (namely) rendering nugatory of its resistance, evidence of its ownership, weakening of it, or its falling into any device of hunting. Hence any one who hits with a miss a hunted animal to which another person has a claim or which shows no signs of being another’s property, he becomes its owner even if he has not secured possession or custody of it if there is no one to challenge his ownership.

8. He who excavates a well till he reaches the water he is more entitled to its water to the extent of giving drink to his animals and to the irrigating of his farm. If thereafter there is any excess it is obligatory upon him to give it gratis to another person who is in need of it as has been

specified by ash-Shaykh aṭ-Ṭūsī in *al-Mabsūṭ.* The relevant text we have already quoted before.

9. If a man holds a property in possession and he afterwards neglects and abandons, his right and title to it becomes extinct and it becomes a freely *mubāḥ* property just as it was before it was taken possession of. And it will be lawfully valid for any other person to take it in his possession inasmuch as the owner's avoiding to utilize and derive the usufruct from his property and his abandoning of it severes his connection with the property, as has been mentioned in the sound tradition narrated by 'Abdullāh ibn Sinān on the authority of *Ahlu 'l-bayt.* They say:

> He who lights upon a property or a camel in a deserted tract of land exhausted or gone astray, its owner abandoning it, having not pursued it, another person takes it up, maintains it, spend for it to restore it to life out of its sheer exhaustion and inanimation, that will becoming his property indisputably and the former has no right in it. This is like a *mubāḥ* (free to all).

Though the tradition turns round the abandoned camel lent the (word) camel is conjuncted with the (word) property we learn it is a general rule applicable to each and every such case.

10. The individual neither obtains the proprietary right to the land he pastures his cattles nor does he become owner of the pasture land on which he pursues pasturing. He will obtain the right to it only by reclamation of the land. Hence it is not allowable for a person to sell a pasturage unless before his doing so he has acquired a right to it either by his having re-claimed it or his having inherited it from a person who had reclaimed it or in some such other way.

It is reported on the authority of Zayd ibn Idrīs that he questioned Imām Mūsā ibn Ja'far (a.s.) about a person's enclosing a piece of land as his private preserve for pasturage, telling the Imām that they possessed landed farm property in the country, boundary line of each property being clearly delineated. They possessed. cattles. In the country there were pasture lands, one of them had camels and sheep and he was in need of the pasturage for the same. Would it be valid for that man to hold the pasturages as his private preserve (*ḥimā*), to meet his need. The reply of the Imām to the query was if the land was his own land then he can enclose it as his private preserve and make what use of it he was in need of. Then he asked the Imām about a person selling his pasturage. The Imām replied that if the land belonged to

him there was no objection to his doing so. This reply indicates that action of adopting a pasture land does create for the herdsman the transfer of this right to another person by sale.

Conclusion:

In the light of the upper structure and its particular tradition from the doctrinal fundamental we will be able to perceive the land-marks of the theory and subsequently shall be able to answer the question we have previously presented.

The Economic Work (Activity) is the Basis of the Rights in the Theory:

The Theory distinguishes between two classes of activity, one of them is utilization and fructification and another monopolization and exploitation. Works of utilization and fructification are works of economic character by their nature whilst the works of monopolization are established on the basis of force and does not directly justify utilization and fructification.

In the theory the source of the exclusive private rights is the work which is connected with the works belonging to the first category like the gathering of the firewood from the forest, and the transferring of the stone from the desert land the reclaiming of the dead land. As for the works which come under the second category have no significance in the theory for they are one of the manifestation of force and not an economic activity of utilization and fructification of the natural sources and their wealth. And force cannot become a source of the special rights nor their sufficient justification. It is on this basis the general theory has eliminated the work of the possession and control of the land and has not established any special right on the basis of it, as such work, in fact, is an act of force and not one of utilization and fructification.

The Double Nature of Possession :

When we assert this, we surely come face to face with the difference between taking possession of the land, and the taking in possession of the

stone by carrying it from the desert land, of firewood by gathering it from the forest or of water by ladling it up from the river. Now since taking possession is a manifestation of force, and not a work of economic nature like the work of utilization and fructification how is it allowable for Islam to distinguish between the work of taking into possession of the land and the work of taking into possession of the fire-wood and confer upon the latter the special rights whilst it eliminates the former and strips it of all the rights?

The reply to this question is that in the theory of Islam the differentiation between the works of utilization and fructification and the work of monopolization and exploitation does not stand on the basis of the form of the work. Rather the work bearing the stamp mark of utilization at one time and the work of monopolization and exploitation at another time, take one and the same form according to the nature of the field in which the worker is engaged and the kind of wealth he is handling. Taking possession of, for instance, even if it be from the point of form of one kind of work yet by the general theory differs according to the kind of wealth over which the individual acquires control, now the taking in possession of the firewood by gathering it up or of the stone by transference of it from the desert land, is a work of utilization and fructification. But taking possession of the land or acquiring control of a mine or a spring of water is not such a work but is a manifestation of force and domination in the latter cases.

In order to demonstrate this we may postulate by way of a hypothesis a man living all alone in an immensely vast area of land (rich) in springs of water, mines and natural resources, far from any claimant and opponent and study his behaviour and the kind of possession he will pursue.

Such a man will not bethink himself of taking possession and control of a great area of land and what of the mines and springs that are there in and the protection of them from the encroachment of others upon it, for, he will find no claimant for this protection and will derive no profit from it in his life, as long as the land will be at his service and disposal for all the time with none to compete with him but will only utilize by reclaiming such part of the land as may (be proportionate to) the level of his power and ability to fructify it.

Yet despite of the fact that he will not bethink himself of securing possession of a great area of land, he will always strive to secure possession of water by transferring it to his tankard of the stone which he will carry to his shanty and of the firewood to build his fire upon.

So taking in possession of the land such and other resources of nature will have no meaning when competition is non-existent, rather than that rehabilitation will be the one and only work the individual will practise under such a circumstances in respect of the resources of nature in order to fructify them and derive benefit therefrom. But taking possession of the land will acquire its value (significance) when competition in respect of the land will come into existence. Then the individual will set out to secure possession and control of a vast area of land and to take it under his protection to guard it against encroachment upon it by others. This means that the taking possession of the land and the belike other natural resources is not a work of economic character of utilization and fructification but is the operation of surrounding and production of the resources of nature against the encroachment of others upon them.

Contrary to that the securing possession of the firewood, the stone and (a quantity of) water is not a work of force but by its nature an economic work of utilization and fructification. It was because of this that we saw that the lonely man pursues this kind of possession despite of the fact of its being free of any motive or incentive for the use of force or violence. Thus we learn that taking possession of portable things of natural resources is not altogether an act of force but is in fact an act of utilization and fructification which a man carries out even if there does not exist before him any justification for the use of force.

On the basis of this we can include taking in possession of the natural resources such as lands, mines and springs of water among the works of monopolization and exploitation, which have no value in the theory and can include the natural wealth which are transferable and portable, among the work of fructification which is the sole source of the special rights in respect of the natural wealths.

From this we derive a conclusion. It is the economic character of the work which is a necessary condition for the producing of special rights. So the work will not become a source for the appropriation of a property unless it is by its nature a work of utilization and fructification.

The Theory Differentiates Between the Works of Economic Character:

Let us take the work of utilization and fructification which bear the

economic stamp mark in order to examine the stand-point of the theory in respect of their valuation and the kind of rights which are established on its basis.

In this field we do not need anything more than pursue the second and the tenth paragraphs of the preceding upper-structure in order to know that the *sharī'ah* does not always confer upon the individual the right and ownership of the natural wealths *viz*. land, mines and water springs by the individual's mere performance of a specific work of utilization and fructification, for instance, from the second paragraph that the carrying out (the work of) tillage of a cultivable land does not give the cultivating individual that right which it confers upon his carrying out the work of reclamation of a dead land; and also observe from the tenth paragraph that the utilization of the land by taking it for pasturage does not confer upon the herdsman a right to the appropriation of that land although his making use of it as a pasture is an act of utilization and fructification. Well then here there is a difference to be elucidated between the reclamation and the works on it, and the fructification of the fertile land for cultivation and pasturage although these works appear collectively to be of economic nature and kind of utilization and fructification. With the finding of this differential advancement will be made to a new stage in determining of the general theory and all its aspects.

How the Special Rights are Established on the Basis of Work?

The fact of the matter is that this difference is closely connected with the justification in which the theory believes for conferring upon the individual's special rights to the natural wealth on the basis of work.

In order to fully understand theoretically the difference between the body of the works of utilization and fructification of economic character, we have presented, it is necessary for us to acquaint ourselves with the theoretical stipulation for the special rights which are connected with the work and how, and to what extent the work plays its positive role in the theory and which is that principle on the basis of which the work creates special right for the person to the natural wealth on which he carries out the work? If we become acquainted with this principle we will be able to differentiate, in the light of it, among that collection of works of utilization.

We can summarize this principle in the light of the complete upper-structure of the theory in the following form: The worker appropriates the product of his work which he has produced by spending his exertion and strength on the natural raw material. This principle is applicable to every work of utilization and fructification which the individual carries on the natural resources and the raw materials obtainable from them without any differentiation between the operation carried out for the reclamation of the dead land or the exhumation of the mine or the extraction of water or his cultivation of the land naturally fit for cultivation, or his employment of it for the pasturing and the rearing of his live-stock. Each and everyone of these operations is a work and the worker is entitled to reap the fruits and to appropriate the product of any work he carries on raw materials.

But the right and title of the worker to the appropriation of the product of his work and labour he carries out on natural resources does not mean that all these works agree as to their products so that they will agree as to the rights which accrue therefrom, on the contrary they differ as to their products and on the basis of this, differ as to the kind of rights which arise from them. The reclamation of the dead land, for instance, is an operation the individual carries out on a dead land which is unfit for production and utilization. He removes from the surface of its soil hard granite and rocky stones and fulfils all the conditions which are necessary for rendering it fit for production and utilization. In this way he, on account of his having reclaimed the land, has realized what did not exist before the reclamation of the land. But this is not the result of the existence of the land itself. The process of reclamation does not create the land but it is the utility which the individual has produced by his labour and work, for the reclamation of the dead land results in the creation of utility which renders it fit for utilization and fructification. Since this utility was not available in the land before its reclamation but resulted from the operation of reclamation and the worker becomes the owner of this utility according to the general theory, it being the product of his labour and work; and his ownership of the utility results in preventing other from stealing of him of this utility or of despoiling it by depriving him of it by their seizure of the land from him and of their utilization of it instead of him, for, thereby they deprive him of the utility which he created by his strenuous labour he carried out in the reclamation of the land and his ownership of it he acquired by a duly lawful work. On account of this the individual becomes more deserving by entitled to it by

reason of his having reclaimed it than others so that he may be enabled to avail himself of the benefit of the utility he has produced. This right of priority is all of his right to the land. Thus we learn that the right of the individual to the land he has reclaimed is reinstated as invalidation of others' spoiling him of the product of his work and the despoiling him of the benefit of the utility he has created by his duty lawful labour and work.

The discovery (and utilization) of the mine or the extraction of the spring of water from the inner bowels of the earth are wholly like the reclamation of the dead land in this respect. The individual who carries out the operation of reclamation creates the utility of a part of nature by reclaiming it and appropriates it as a fruit of his labour and toil so it is not allowable to others to despoil him of the utility and the worker shall have the right to, prevent others if they try to seize it from him of that part of nature and this is considered as his right to the land mine and water spring with differences which we shall examine after a while.

As for the carrying out of the work of tilling on the naturally fertile land or making use of for the pasturing of his animals, even though these are works of utilization and fructification of the natural sources yet they cannot justify the (for bring into) existence of a right of the farmer or the herds-man to the land because he neither produces the land itself, nor a general utility like the utility which the work of the reclamation of the dead land produces. True the husbandman or the herds-man has produced the crop or has reared the animal wealth by way of his work done on the land, but this justifies only his appropriation of the farm product which he produced or the animal wealth he was engaged in rearing and not his appropriation of the land or his right to it.

Well, then the difference between these works and the operations carried out for the reclamation of a dead land consists in this that those operations (reclamation) create utility to be derived from the land or the mine or the spring of water which did not exist before its reclamation, so the individual appropriates the utility and through his appropriation of this utility he acquires his right to the source of nature he has reclaimed. So, for the land naturally cultivable or naturally fertile land on which the husbandman carries out the tilling or pasturing operation, its utility for tillage or pasturage existed therein before that and did not result from specific work. The only thing which resulted from the work of cultivation, for instance, was the farm yield and it is his special right, for it is the product of his work.

In the light of this we can deduce a new condition in respect of work which affords special right on the natural resources. We have already found the first condition on the fulfilment of which the special right to natural resources is acquired and it is that the work be of economic nature. We now deduce the second condition. It is that this work produces a new circumstances or a definite new utility which the worker appropriates and through it he acquires his right to the source of nature.

From our finding this correlation between the right of the individual to the natural resource and the utility which the work produces in that source, it logically follows that the right of the individual becomes extinct when that utility which the work has produced, is destroyed, for his right to the natural resource stands, as we have learnt, on the basis of his appropriation of that utility. Hence if it becomes extinct the right becomes void. This is what we find entirely from the fourth and the fifth paragraphs of the upper structure, we have already given.

Let us now take these works of reclamation which confer upon the working individual special rights to the natural re-sources, like the reclamation of the dead land, the exhumation of the mine and the finding of the spring of water in order to examine minutely. We see that these works differ in respect of conferring the rights which they produce after our having examined the difference between them and all the works of utilization and fructification, and after our having learnt before this the difference between the work of utilization and fructification in general and the work of monopolization and exploitation.

When we re-examine (lit, review) the preceding upper-structure the rights which are established on the basis of reclamation, we find it different from the work on the other reclamation differs from the right accruing from finding of the spring of water. Thus the land reclaimed by an individual it is not permissible for another individual to raise crop on it without his permission or make any other use as long as the former who has reclaimed it take advantage of his right in the land while we find that the individual who extracted the spring has only the right to the water commensurate with his need, and it is allow-able for the other to derive the benefit from the spring from whatever it is excess after the need of its owner.

It is, therefore, upto the theory to explain the ground which leads to the discrepancy between the right of the re-claimant of the land which he reclaims and the right of the finder of a spring of water to the spring he

discovers, and to give reason as to why it is permissible for any other individual to avail himself of water from the spring of it, when it is in excess of the need of its owner. While it is not permissible for any one to make use for cultivation of a land which a reclaimant has reclaimed without his permission even when he reclaimed does not actually employ it for cultivation.

Indeed the reply to it is readily available from the information we have found till now from the theory. The reclaimant becomes first of all the owner of the product of his work, and it is the right to the benefit of the utility from the natural resource and his ownership of the utility imposes upon others the duty of refraining from spoiling it from him or despoil him of its benefit by seizing it from him. So it is by this reclamation that he obtains the special right to the resource. And this results in its entirety follows consistently in the case of all natural resources, without any distinction between the land, the mine and the spring of water for the rights which result from reclamation of the natural resources are similar.

The permission for others availing of water from the spring of water which is in excess of the need of the discoverer of the spring does not arise from the difference of right but arise from the nature of the thing. The individual is not despoiled of the ownership of the utility which he receives as a result of his digging work and the discovery of the spring by another person's sharing in the usufruct of the spring's water so long as the natural water in excess of his need for the underground water is not usually stinted by the addition of two persons and by the satisfaction of their need of it. As such the discoverer of the spring preserves his right of enjoying the usufruct of the utility he has created without losing his enjoyment of the utility by another person's sharing its usufruct along with him.

Contrary to this is the case of the dead land which the individual reclaims and acquires the right to the usufruct of the utility created therein, for the land is not, by its nature, capable of being fructified by two person simultaneously, so if a person were to forestall and fructify the reclaimed land, that would amount the seizure of the utility the reclaimer creates by its reclamation, since the land when it is assigned to a specific agricultural product cannot play a similar part and cannot be utilized for the purposes of production of another individual heretofore.

In this way we learn that the fructification and deriving of profit from the reclaimed land is not allowable to any other person than its reclaimer

for that would amount to despoiling the reclaimer of utility which he created by his work and labour so in order that the reclaimer retains this right to the usufruct of its utility, it is not permissible for another person to fructify the land irrespective of the reclaimer's actually making or not making use of it, in any way it being the utility which he has created and it is within his right to keep the land so long as the labour and toil he has spent on reclaiming the land remains rectified therein. Contrary to this is the case of the spring of water, any other person than the one who discovered to avail of the benefit of the spring from drawing such quantity as is in excess of the need of the discoverer of the spring. Since that does not amount to the discoverer's being deprived of the utility he has created on account of the water's responding to the discoverer's need of it and its ability of satisfying the need of the other at one and the same time. Hence it is the difference between capability and the mode of its utilization in respect of which explains permission of the spring and not the land to others.

As for the discovered mine, Islam has allowed every individual to avail himself of the benefit to be derived from it in a way that it does not result in depriving the discoverer of the utility which he has created and thus by his carrying out the digging at another place from the mine or to avail himself of the benefit from the very pit which the first discoverer has dug up, in case it is rich enough to afford another person its benefit without depriving the discoverer of it from deriving the advantage of its utility.

Hence the general criterion for the permissibility to other than the discoverer of a limb of natural resource which discoverer has made available for reclamation and created the availing of the advantage of its utility is, the extent of its effect on the utility which the reclaimer has created by his reclamation of the natural resources.

The Basis for the Right of Possession Concerning Moveable Properties :

So far we have almost kept our discourse confined to the work about the natural resources like the lands, the mines and the springs of water, we must now, in order to include the full contents of the theory, to examine minutely the application of the theory to the moveable properties other than the natural wealths and explain the difference between them and the natural resources and the theoretical justification of these differences.

The only thing we have come by as to the stand-point of the theory, is taking possession of these wealth considered a work of utilization and fructification bearing the economical to the taking possession of the natural resources which are against the character mark of monopolization and exploitation which does not bear economic character.

We have already employed the hypothetical example of an individual to demonstrate the difference between taking possession of the natural resources and taking possession of moveable properties.

So then taking into one's custody a quantity of water, or a forest wood, or any other wealth which has the possibility of being carried is considered before everything a work of utilization and fructification. Hence taking possession of move-able wealth are admitted, in the estimation of theory which does not recognize any work except the work of utilization of economic character.

But taking possession is not the only work which the theory recognizes and which it values in the field of moveable wealth. Here there is another kind of work which resembles the work of reclamation in the resources of nature. It is the work of creating utility of benefit from the moveable wealth when it consists in the natural ability of the moveable wealth to offer resistance to availing of its benefit, for example, the hunting of wild animals. The work of a hunter who paralyses the power of the resistance of the animal he is hunting is the work whereby he creates the utility of the animal made available to be profited from by his breaking down of the resistance of the animal just as the reclaimer of the dead land creates the utility of the land made available for the benefit to be derived from the land through his reclamation of it by breaking down its resistance and subjugating its soil to cultivation.

Hence taking possession and creating utility for benefit are two kinds of work which carry together the economic mark in the field of moveable wealth. But the creation of a new utility to make available the benefit from the moveable wealth, stands apart from taking possession by its positive role on account of creating this utility since taking possession has, from the economic point a negative role, as being a mere control over the moveable wealth, it creates no new utility making available a fresh benefit from it in a general shape, for when you take possession of a stone on the public road or water from the well you do not create a new utility therein in general shape which was not there in it before, for the stone or water was lying

there, offered itself to one who is hungry for it and by your taking control over it and your storing it against your need of it nothing more was added to it. True, you transferred the stone to your house and water to your vessel, but this does not create a new utility which was not there before in the thing the benefit of which is made available in a general shape by your doing so, for this transfer only makes easy your ready utilization of the stone or water but does not subdue a general obstacle nor does it confer on the thing a quality which imparts to it a greater capacity or power of profit in a general shape as the reclamation of the land which breaks down the resistance of the land and confers upon it a new sufficiency to play a general role in the life of man.

On the basis of this we can compare, hunting and a certain of its works, like the creation of a new utility in the moveable wealth, with the operation of the reclamation of the land, for the hunting and reclamation agree in one thing the creation of a new utility which was not available before and compare the taking in possession of the moveable wealth with cultivation of a fertile land for just as the cultivation of a fertile land does not creates a new utility in the land but is only a work of utilization and fructification so is the securing possession of water from natural spring.[1]

This differentiation between the taking in possession of the moveable wealth, and the work in respect of it which creates utility like the work of hunting does not mean separation of either of the work from the other, more often the work of taking possession of a moveable wealth is associated with the work of creation of a new utility and so the work of taking possession become combined into a single operation so also either of them are likely to be found practically separate from each other.

There are certain moveable wealth, which possesses some degree of natural resistance to its utilization like the marine fish or the over-flowing river which runs by its nature to the sea to be lost in the depth of it at the end of its long journey. If the fisherman succeeds in tempting the fish to fall into the net laid for fishing it, he may be said to have secured possession of it as

[1] It may be observed here that I have not compared *mubāḥ* water with a land naturally fit for cultivation, but have compared securing possession of water with the cultivation of a land naturally fit for cultivation, for taking possession of the land is not a work of utilization and fructification — as stated before — but taking in possession of water is a work of utilization of economic character like the cultivation of the land naturally fit for cultivation.

well as have created utility therein as a result of his overcoming its resistance through his single operation. Likewise his storing of over-flown water of the river means his taking possession of it while at the same time creates its utility by arresting its running away and slipping into the sea.

It may happen that the individual performs a work for creating a new utility in the moveable wealth and for breaking down of its natural resistance without being able to secure actual possession of the wealth, for example the bird catcher throws a stone at a bird soaring in the air and arrests its motion and compells it to descend to the earth. The bird descends to the earth far removed from the place of the bird-catcher and dawns upon a position, it does not lend itself to become tractable like a domesticated animal except by walking over. Surely utility was accomplished by this operation through the way of hunting it and breaking down of its resistance by the throwing of the stone at it but when the bird has walked far away from the bird-catcher it cannot be deemed to have come into his possession or under his authority, but if the bird-catcher pursues it and secures it, his possession of it will be completed.

The individual may take possession of the moveable wealth without performing the work of creating a new utility therein, like when the moveable wealth possesses by its nature aptitude of being utilized, without its wrapping itself up with resistance intervening in between like taking possession from springs and stone from the earth. Hence taking possession of and creating new utility in the moveable wealth are two kinds of work. They may be combined into one single operation and they may be separate operations.

Let us explain the second kind of the work which creates the new utility in the case of hunting as an outstanding example of the work which produces a new utility in the moveable wealth.

In order to examine both these kinds of work we will take up either of them in a separate manner from the other, theoretical ground discover the prescriptions specific to either of them and the nature of the rights which result from either of them and their theoretical basis.

The Role of Productive Works in Theory :

When we examine the act of hunting apart from the act of possession that it is a work which produces a definite utility. It is natural that it may

confer upon the performer of it the right and title to the ownership of the utility which has resulted from his work in the same manner as the reclaimer receives the ownership of the utility which results from his work of reclamation of the land according to the afore-mentioned principle of the theory which confers upon every worker for his work in respect of natural raw materials, the right of ownership to the product which results from his work.

And the bird-catcher by way of his acquiring the ownership of the bird, it becomes his special right to a special ownership of the bird he has hunted and compelled it to descend to, and walk on the earth even when he does not secure possession of it as pointed to by the application of the texts of *sharī'ah,* (vide appendix XII). Hence it is allowable to another individual to forestall him in appropriating it or taking advantage of the bird-catcher's occupation in getting into contact with the prey to take it into his custody by out-racing him to it for that would result in the deprivation of the bird-catcher of the utility he created by his act of hunting.

For the right of the bird-catcher to the bird he has captured does not depend upon his securing possession or his practical commencement of the availing of its utility but the mere accruing of the utility he has created, invests him with the right to it irrespective as to whether he thinks of actually availing of its usufruct or hurries to secure it or not.

The bird-catcher is like the worker who reclaims a land, just as it is not allowable for any other individual to fructify and cultivate it, so in the same manner it is not correct for any other person than the bird-catcher who has subdued and broken down the resistance of the prey, take the pray so long as the said bird-catcher retains his right to it even if he has not actually hurled to secure possession of it.

But if the bird which is paralyzed as a result of the bird-catcher's striking it with a missile, is able to regain its strength recovers from the blow it was struck before the bird-catcher has secured possession of it and takes to it wings, once again, the bird-catcher's claim comes to an end since this right depends upon the right and claim to the utility which the bird-catcher produced by his act of hunting and this utility is destroyed by the fleeing of the bird to the air, so there remains no right of the bird-catcher to the bird (vide appendix XIII).

In this also it resembles the worker who has the land and right to it on this basis. Since he loses his right to the land if life is extinguished in it and it

becomes again a dead land and the theoretical ground in either case is the same in both of the cases, that is the right of the individual to the wealth is linked with his appropriation of the utility which results from his work, so that when that utility comes to an end and that effect of his work becomes non-existent his right to the wealth comes to an end.

So then when hunting is viewed in respect of its prescriptive rules, independently of possession resembles the operation of reclamation of natural resources. This resemblance, as we have seen springs from the unity of the theoretical explanation of the right of the bird-catcher to the prey and the right of the reclaimer to the dead land he has reclaimed.

The Role of Possession in Respect of Moveable Wealth:

Possession differs from pure hunting as to their respective prescriptive rules. Because of this we find that when the catcher of the bird becomes the owner of the bird he hunts and when it comes into his possession it becomes his right to recover **it** when it flies away and avoids him, another person shoots him, whilst the other person has no right to retain possession of the bird, on the contrary he must return it to the one in whose possession the bird was, for the right relying on the authority of possession is an immediate right in the sense that the possession was the immediate reason of the ownership of the bird and it is not that the possession is connected with the ownership of a specific utility so as to end with its ending.

It is this difference between the possession and other operations which we have come across. Thus hunting is the ground for the bird-catcher's ownership to the utility he produced and his right to stand upon that basis (in respect of the bird) the reclamation is the ground for the reclaimers' appropriation of the utility which accrued from his reclamation of the waste land and as a result of which he came by his right to the limb of natural resources he reclaimed. As for the possession of the moveable wealth, the mere possession in itself is the original and immediate ground of their ownership.

This difference between the possession and other works makes the confrontation of the following questions on the plane of theory, inevitable that when the right of the individual to the natural resources he reclaims or to the prey that he hunts is established on the basis as a result of his work which is the enjoyment of the advantage of utility of that resource. Then on

what basis stands the right of the individual to the stone which he meets with on the road which he takes up and makes his own is established, or his right to the still water which he takes into his possession from a natural lake, although taking possession of this water or this stone does not produce new general utility in the property as the hunting and reclamation do.

Reply to this question: The individual does not receive his justification for this right by taking the ownership of the utility which is the result of his work but justifies the individual's availing of the usufruct of that property. Just as it is the worker's right to enjoyment of the advantage of his work, so likewise it is his right to enjoy the advantage which the grace of Allāh the High provides him with water, for instance, when it was hidden in the bowels of the earth and if an individual finds and unearths it by excavation, he created the advantage of its utility, so becomes deservedly entitled to its ownership. But when water accumulates in a natural way on the surface of the earth and as the advantage to be derived from its utility was achieved without the effort of the man it will be necessarily open to every man to enjoy the benefit of it, nature having dispensed with them the work and having conferred upon them the advantage of its utility.

If we suppose that an individual taking in his vessel a quantity of water from the naturally accumulated water on the surface of the earth he may surely be said to have carried out the work of utilization and fructification in the theoretical sense as stated by us in the early part of the discourse; and as long as it is the right of every individual to enjoy the wealth which nature presents before man it is but natural that the individual be allowed to take in his possession a quantity of water found on the surface of the earth from natural source. His taking in his possession therefrom constitutes an act of utilization and not a work of monopolization and force.

If the individual retains possession of a quantity of water it is not allowable for another individual to contend with him in respect of it and seize it from him to utilize it for his benefit. The theory holds that taking in one's possession of a quantity of water or such other moveable wealth is a work of utilization and fructification so long as it is a continuous possession; deriving of its benefit is a continuous permission on behalf of the possessor of it and as long as he continues the utilization of the wealth there is no justification for another person to proceed against him, if he so intends.

Thus individual continues to enjoy his right to the moveable wealth in

his possession, so long as the possession is continuous defect or *de jure*[1].

Thus it is clear that the right of the individual to the quantity of water from the lake he takes into his possession or the stone he takes from the public highway does not rest upon his appropriation of the general utility which accrues from his work but upon the basis of that individual's pursuit of the availing of the advantage of that wealth by way of his having taken possession of it.

In this light we are able to add to that preceding principle of the theory which holds: that every individual becomes the owner of the product of his work a new principle that is the pursuit of the individual's availing of the advantage from a natural wealth, gives him a right to it so long as he continues to take advantage derived from that wealth and because of the possession being, in the field of the moveable wealth, a work of utilization, this principle fully includes it and establishes on the basis of his right to the wealth, which he holds in his possession.

The Generalization of the Theoretical Principle of Possession:

This principle is not applied to the moveable wealth only but is also applied to other sources of nature. If a person carries out a work of utilization as when he cultivates a naturally cultivable land his cultivation of it constitutes a work of utilization, he acquires a right to the land on the basis of it which refrains others from interfering with him and seizing of the land from him so long as he continues to take advantage of it. But this does not mean that his mere possession of it is sufficient for his earning of this right to it, like taking possession of a quantity of water because taking possession of the land is not a work of utilization and fructification. He avails himself of the advantage from the naturally cultivable land by way of his utilization of it for cultivation, for instance. So if the worker practises cultivation of the

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[1] By *''de jure''* continuous possession, we mean: the uncontrollable circumstances by which nexus to the property is cut off like amnesia, loss and usurpation etc. The *sharīʻah* estimates continuous possession and advantage (right of usufruct) *de jure* on account of that it orders return of the lost or usurped goods or property to the custody of its owner and this estimation refers it back *de facto* to the emphasis on its voluntary constituent and negation of the effect of the compelling circumstances in diverse legislative fields.

naturally cultivable land and connects it with this kind of profit from it, it would not be valid for another person to seize from him so long as the worker continues his work of cultivation for the other person has no more right to it than one who actually makes profitable use of it, but if the individual gives up cultivation of i t and availing of advantage from it, his right to retain his possession of it comes to an end, in that case it becomes valid for another individual to practise a work of utilization and fructification on it. We may look at the difference between the two principles at the time of the person's leaving of deriving profit from the land. The right of the individual which stands on the basis of his continued profiting from the natural wealth vanishes simply by the individual's giving up taking advantage of the utility of the land and discontinuance of it while the right which stands on the basis of the reclaimant's ownership of the utility lasts so long as the utility remains intact and the efforts of the reclaimant remain rectified in the reclaimed land.

Summary of the Theoretical Deductions:

We can now induce from the examination of the general theory of the distribution before production two basic principles of this theory.

One of which is: The worker who carries some work on the natural wealth becomes the owner of the product of his work. It is the general utility of the advantage derived from that natural material and the result of the worker's appropriation of the ownership of this which will constitute his right to the property itself following from his assuming the ownership of the utility which his work has produced and his right to the property is linked with this utility by virtue of his ownership of it, so, if the opportunity he has created slips and becomes non-existent, his right to the property becomes void.

The second principle is: The pursuance of availing of the profit from whatsoever of the natural wealth confers upon the pursuant individual a right forbidding other individuals to seize the wealth from him so long as he continues to avail of the profit derived from it and practises a work of utilization and fructification for no other person possesses a prior right than him to the wealth so that it may be forcibly taken away from him and be bestowed to other person.

On the basis of the first principle the prescriptive rules which regulate the operations of reclamation and hunting are established and on the second basis rest the prescriptive rules for the taking possession of the moveable wealth in which nature abounds for man to derive the benefit of their utility.

So the creation of a new utility in the natural wealth and continued deriving of ample profit which is naturally stored up are the two basic sources of the special right to the natural wealth.

It is the economic quality which is the jointly common mark of these two sources of nature for both, the creation of a new utility or the deriving profit on the basis of the utility made naturally available are considered to be a work of economic character and not a work of force and exploitation.

OBSERVATIONS

1- A COMPARATIVE STUDY OF THE ISLAMIC THEORY

We have seen that Islam permits the individual's acquisition of special rights to the natural resources within the limits of which the general theory of the distribution before production lays down. The theoretical determination of these rights differ from the determination of them in the Capitalist and Marxist theories.

In the doctrine of capitalism appropriation of all the sources of nature is permitted to every one on the basis of the principle of economic freedom. The individual may regard of every wealth which he holds under his control as his property unless that clashes with the freedom of the ownership bestowed upon other persons, for the permitted scope of every individual's private property is unlimited except to the extent of the safeguarding of other individual's freedom of ownership in this respect. Thus the individual receives justification of his ownership on account of his being man and his not interfering with other's freedoms.

But the Islamic general theory of distribution before production which we have studied does not recognize freedom of private ownership in the capitalist sense but considers the Individual's right to the ownership of the natural resources of raw material as connected with his ownership of the product of his labour or his continuous availing of the benefit of that source.

Therefore his right to it expires when both of these two basis become non-existent.

Capitalism regards private special rights to the natural re-sources as an expression of the man's freedom which he enjoys under the aegis of the capitalist system while in Islam it is on expression of the activity of the man and his pursuit of a labour for the utilization and fructification.

Marxism, however, believes in the annulment of every kind and type of private property in the natural resources and all other means of production and calls for the release of all those means from the bondage of private rights, since there no more remains any justification ever since, history has entered in the modem industrial age a determinate stage ringing the bells of the mechanized industrialism in the present capitalist age.

But the Marxism's belief in the need of this annulment does not mean, from analytical doctrinal point of view, that the private proprietorship in the Marxist is altogether without any justification. It interprets only its belief doctrinally that the private ownership has exhausted all its aims and objects in the movement of history and there remains no room for it in the modem history after it has lost its justification and has become a force of its cross-current.

In order to make comparison between the Marxist theory of the private ownership and Islamic theory of private owner-ship it is necessary for us to know as to what are these justifications in the Marxist theory of private ownership and how it has lost its justification in the modern age.[1]

Marxism holds the opinion that raw natural materials possess by their nature no exchange-value, they have only numerous use values. The exchange

[1] Here by the Marxist theory we mean economic theory of the Marxist doctrine and not the Marxist theory of the interpretation of history and its analysis. (Cont. p.210)

The private-ownership is sometimes studied as a historical phenomenon. In this capacity it is justified marxistically on the basis of the Marxist theory of history with the condition of class-conflict, the form of production and the kind of the forces of production.

At other times, the private-ownership is studied purely on the economic basis in order to find its legislative justification and not its historical justification of its existence. At this time it is necessary to search for its Marxist justifications in the Marxist theory of 'the value' 'the labour' and surplus value .

value in a natural raw material comes into existence only as a result of the rectification of human labour therein. It is human labour which creates exchange-value in things. The raw materials which are in their natural form and are not rectified with human labour possess no value from the point of exchange. It is by means of this that Marxism links human labour with exchange value and fixes that it is the worker who pursues with his labour a natural resource or a natural wealth confers upon the goods he pursues with his labour an exchange-value proportionate to the amount of labour he spends on it.

Just as Marxism links labour with exchange-value, links exchange-value with ownership. It confers upon the individual who created the exchange-value by his labour the ownership of that property and the enjoyment of the value which he creates. Hence the individual's ownership of the wealth receives, according to Marxism, its justification from the capacity of the individual as the creator of the exchange-value in that wealth as a result of the labour he has spent on it. It is thus on the basis of this theory, a right to the ownership of the natural resources and the natural means and sources of production dawns upon the individual if he is able to spend some effort and to confer exchange value upon them. This ownership shows itself to be, in the light of the Marxist theory, an ownership of the property which results from the labour and not that of the natural resources apart from the product. But this product of which the worker becomes the owner, is not the advantage of the utility as a case resulting from labour just as we have seen in the Islam's general theory of distribution before production but it is in the opinion of Marxism the exchange which is generated from labour so it is the worker who confers upon the natural source definite value and becomes the owner of this completed value of the goods.

Elevating on this Marxist basis the justification of the private property, Marxism states that this proprietorship continues to be licit till it enters the age of industrial production wherein the owners of the sources and the means of products which they own pay something to those who do not own them to work for them on wages and to hand over to the owners of those resources and means the profits. The value of these profits will become within a short period of time equivalent proportionately with the exchange of these sources and means. By this it will be that the owner will have had in full for his entire right to these sources and means because his right to these sources and means is connected with the value of the product of his work on these sources and

means as long as he recovers this value embodied in the form of profits which it has maximized. Thus private ownership loses its justification and the private-proprietorship becomes illicit according to Marxism with the advent of the age of capitalism or hired labour.

On the basis of this which links the ownership of the worker with exchange-value, make room for another worker, if he works on the wealth, to become the owner of a new value which results from his work. If a man goes to the forest cuts a part of its wood, spends upon it some labour so that makes out of it a board. Then another man comes. He makes out of the board a bedboard. Each one of them becomes the owner of the exchange-value which results from their respective work. Therefore, Marxism considers that it is the hired-man in the capitalist system who is the owner of the entire exchange-value which the material acquires through his work and the owner of that materials taking a part of this value in the name of profit is a robbing hired man.

Value is linked with work and the ownership, well it is only within the limits of the value which results from the owner's work.

These are the Marxist justifications of the private property and they can be summed up in these two propositions.

i) Exchange-value is linked with work and results from it.
ii) The ownership of the worker is linked with the exchange-value which his work creates. We differ from Marxist in both of these propositions.

As for the first proposition, which connects exchange-value with work, and makes it the sole basic criterion we have examined elaborately in our discussions under the heading of the chapter of this book bearing the title of ''With Marxism''. There we have been able to prove that exchange-value does not spring basically from work and have been able thereby to repudiate the basis of all the upper-structures Marxism has built upon this pro-position (vide vol. 1,. pt. 1, pp. 160-185).

As for the second proposition which links individual's ownership, with exchange-value, it comes in conflict with the trend of Islam's general theory of distribution before production, for though in Islam the individuals private rights to the natural resources stand on the basis of the individual's ownership of the product of his work yet the product of the work of which the worker who reclaims a piece of land, becomes the owner through the work of a week, for example, it is not the exchange-value which his work of

the week has produced, as is held by Marxism but the product of which the worker becomes the owner for the work done by him on a piece of land which he reclaims is the utility of advantage he has produced in that land and it is through his acquiring his ownership of the utility that his special right to the land itself is born. As long as this utility stands his right to the land will be deemed to be standing and it will not be valid for another person to take in his possession the land to spend a fresh labour thereon even if the fresh work increase its exchange-value, since the advantage of the utility is the property of the first individual and no other person is allowed to interfere in his work.

This is the basic difference on the theoretical side between the specific Marxist basis and the Islamic basis. The special right on the first basis leads to the owners ownership of the exchange-value which the land has acquired on account of his work and nothing more, and on the second basis leads to the worker's ownership of the actual utility of the land which his work has produced.

The principle which holds: that the special rights to the natural resources stand on the basis of work and that the work acquires the ownership of the actual product of his work reflects the Islamic theory.

The principle which holds: that the exchange-value of the natural resources stands on the basis of the work and the worker's ownership is limited to the exchange-value which he has created reflects the Marxist theory.

The main difference between these two principles in the source of all the differences which we find between Islam and Marxism about the distribution after production.

2- THE PHENOMENON OF THE TAX (*ṬASQ*) AND ITS THEORETICAL EXPLANATION

We find from the upper-structure body of a specific phenomenon which shows that it differentiates the land from other natural resources so its examination, and its explanation in the light of the Islamic general theory or distribution or its nexus with other economic theories, in special manner is rendered necessary.

This phenomenon is the *ṭasq* (a fixed land tax or return) which the *sharī'ah* has allowed the Imām to exact from the individual, if and when he

reclaims a land and takes the advantage of it. It occurs in a sound tradition and in some juridical texts of ash-Shaykh aṭ-Ṭūsī: that if an individual reclaims a dead land, he has a *ṭasq* on it (its rent) which he has to pay to the Imām.

The question is what is the justification for this *ṭasq* and why is the land singled out among the other sources of wealth for this *ṭasq?* Why the reclaimer of other natural resources of wealth are not charged with the payment of some thing from their revenue?

The fact is this *ṭasq* the levy of which is permitted to the Imām on a dead land reclaimed can be given shape to doctrinally and interpretively from the theoretical side on two basis.

The first: On the basis of general theory of distribution itself. When we observe that *ṭasq is* a rent which the Imām imposes upon the land on account of its being a part of *anfāl* and we learn in addition to it that the Imām employs it in the interest and the good of the society, as shall come in later discussion, and our comparison between the owner of the land's obligation as to the *ṭasq* and the obligation of the owners of mines and springs of water as to the permission to others to what-ever is in excess of their need does not conflict with his right to the mine (or the spring of water). We will add up all this together, we will have before us to draw a new principle of the theory, which confers upon the society a common right of availing of the advantage of a natural resource as it is put at the service of the humanity in a general manner so *He created for you all that is on the earth* (Qur'ān, 2:29). This common right to the society does not lapse with the natural resources acquiring the mark of special rights but the *sharī'ah* determines the method of the societies deriving benefit of this right in a manner or shape it does not come in conflict with those special rights. In the case of the mines and springs of water all are afforded to avail of their benefit in a direct manner, since every individual is free to avail the benefit from the vein of the mine if he digs it from another side. Likewise, in the case of the spring of water he has a right to seek watering from it, if it be in excess of the need of the one who excavates it. But as for the land, since it cannot, by its nature permit two person to avail of its benefit at one and the same time so *ṭasq is* legalized in respect of it which the Imām has to spend for the good and interest of the society so others are afforded the advantage of it after the special right of the owner who reclaimed it having become a barrier preventing others benefiting directly from that land.

The second: That we explain it apart from the general theory of distribution and that on the basis that it is tax levied upon by the state in the interest of the social justice, for, when we will take up the study of *anfāl* and its social function in the Islamic economics, we will see that the main object of the *anfāl* in the *sharī'ah is* guarantee of social security and protection of general equilibrium and so long as *ṭasq is* regarded legislatively as a part of *anfāl,* it is reasonable to regard it as a tax springing from the general theory as to the social justice and things which are connected with primary guarantee and general equilibrium. But the land was singled out for the imposition of this massive tax on account of its role of importance and weight in the economic life. Law imposed this tax for safeguarding of the Islamic society from the hazards of the private proprietorship of the land, the severe sufferings and the trials non-Muslim societies have undergone or experienced, and to arm against the tragedy of landed revenue of which the history of the human orders is vociferous and its role in the spreading of differences, conflicts and their deep penetrations. The *ṭasq* resembles on this basis the *'khums'* (one fifth) which is levied upon the materials which are extracted from the mines.

In conclusion, having advanced these two theoretical explanations of *ṭasq* it is possible for us to replace each of them with the other by bringing together in a more inclusive and broad-based theory so that we can explain the *ṭasq* as a tax, the imposition of which the Imām is permitted for the objects of guarantee of social security, maintenance of social equilibrium and for the protection of the poor members of the society and explain these objects themselves and their positive carrying out a duty of the strong members of the society in respect of whatsoever of above stated public rights of the society and make them its right upon those who reclaim and fructify these natural resources, in respect of its protection of its interest and the rescue of the poor.

3- ETHICAL INTERPRETATION OF OWNERSHIP IN ISLAM

We have been examining uptill now ownership and special rights in the light of the general theory of distribution before production. The discussion was based on the economic doctrine. In the course of the discussion we were able to advance a theoretical interpretation of ownership and special rights reflecting the view-point of the economic doctrine of Islam. We now

propose to present the ownership, Islamic ethical interpretation. We mean by the ethical interpretation of the ownership a broad-based presentation of the ideal conception, which Islam has given about ownership, their role, their objectives and the work for its spread among the individuals in order to become a force directed towards the behaviour and influencing the conducts of the individuals in relation of their properties and their special rights.

But before we begin to give details of the ethical interpretation of the ownership it is essential that we make explicitly clear the distinction between it and the doctrinal interpretation of the ownership which we have treated in earlier pages, from the economic point of view. In order to facilitate us in making this distinction we may borrow the meaning of *khilāfah* from the following details so that we may compare it with the general theory of distribution on the basis of which we have explained the special rights from the point of view of the economic doctrine.

Khilāfah adds to the private ownership the mark of deputy-ship and converts the owner into a trustee of the wealth and a deputy on behalf of Allāh the High Who is the Lord and Master of the world and all the things contained therein. This Islamic conception of the essence of ownership; when it concentrates and becomes dominant over the mentality of the Muslim owner it becomes a force directed towards the field of behaviour which make it duty of the owner binding him to the instructions and prescribed limits on behalf of Allāh the Mighty and Glorious, just as a deputy is bound always to carry out the wishes of the person who appoints him as his deputy or his vicegerent.

When we look into this meaning we find it does not explain the justifications of the private-ownership from the doctrinal point of view of the economics because the private ownership be it *khilāfah* or any other thing, stris up the question about its doctrinal justifications which explain it why this individual besides the other individual is made the vicegerent or the deputy? Simply its being a deputyship is not a sufficient reply of it. But we find a reply to this question in the economic explanation of the private ownership on a definite basis, for instance, on the basis of work and nexus of the worker with the product of his work.

Thus we know that the completion of the imprint of vicegerency or deputyship on the private-ownership, for instance, is not sufficient for the formulation of the theory of distribution because it does not give an economic explanation of this phenomenon. This imprint creates a specific out-look about the owner-ship standing on the basis that it is purely a

vicegerency or a deputyship. If this outlook grew, predominated and became common among the individual members of the society it will become for it a power which will delimit the behaviour of the individuals and adopt it to the mental reflection of the owner-ship and will evolve out of the sense whereby the wealth inspires the minds of the wealthy. In that way the conception of *khilāfah* becomes a dynamic force directed towards the economic life and towards the social life.

Then the ethical interpretation justifies those conception of ownership which every Muslim usually meets with from Islam. He is mentally and spiritually moulded by them and his sense and activity are determined in conformity with them.

The basis of these conceptions is the concept of *khilāfah* to which we alluded. The property is the property of Allāh. He is its real Owner and men are His vicegerents on the earth and His trustees over it and whatever other wealths and properties that exist on it. Allāh the High says:

> *He it is Who made you viceroys in the earth, Therefore whoever disbelieves, his unbelief is against himself; and their unbelief does not increase the disbelievers with their Lord in anything except hatred...* (Qur'ān, 35:39).

It is Allāh the High who has conferred upon man this vicegerency and if He wished He could take it away from him ...

> *If He pleases He may take you off and make whom He pleases successors after you . . .* (Qur'ān, 6:134).

The nature of the successorship imposed upon the man in respect of the wealth he has been made successor to meet his instruction from the one who has granted him that successor-ship. Allāh says:

> *Believe in Allāh and His Messenger, and expend of that unto which He has made you successors. And those of you who believe and expend shall have a mighty wage* (Qur'ān 57:7).

So likewise as a result of this (vicegerency) the man will be accountable for it before the one who appointed him as the vicegerent to it, he being subject to the watching of Him (the conferrer) over his uses and disposals of it and his works, Allāh, the High, says:

> *Then We appointed you viceroys in the earth after them, that We might behold how you would do* (Qur'ān, 10:14).

The vicegerency belongs to the whole of the society, for this vicegerency actually expresses itself in Allāh the High's preparation of the

wealth of the world and the placing of it at the disposal and the service of man and by man is here meant the public which include all of the individuals:

He it is Who has created for you all things that are on earth (Qur'ān, 11:19).

The forms of ownership as to ownership and special rights are but modes by the following of which facilitates the society in carrying out of its burden in respect of rendering the world prosperous and flourishing. Allāh the High says:

It is He Who hath made you vicegerents in the earth. He has raised you in ranks, some above the others: that He may try you in the gifts He has given you (Qur'ān, 6:165).

The conferring upon some besides the others the ownership and special rights and making different their ranks as to *khilāfah* is a kind of test as to the gifts of the society and the extent of its ability to carry the burden and having the driving force for the discharge of the important duties of vicegerency and for the race in this field. Thus private property becomes in this light a mode of the society's discharging its business of the vicegerency and assumes the stamp mark of the social function as a manifestation of a general vicegerency and not the stamp mark of absolute right and control of the principal. There is a tradition reported on the authority of Imām aṣ-Ṣādiq (a.s.) ''Indeed Allāh has bestowed upon you this abundance of wealth not to hoard it up but to direct it to the ends to which He has directed you''.

Since the *khilāfah* (vicegerency) — in truth belongs to the society and the private property is a mode of the society's achieving the aim of this *khilāfah* and its mission so, the society's relation is not cut off nor does its responsibility cease in respect of the property on its becoming the property of an individual, on the contrary it will be obligatory for the society to protect the property against the mentally weak owner in case he is not mature, for it is not possible for an immature individual to be able to play a fit part *vis-à-vis* the *khilāfah.* It was on account of this that Allāh the High says:

To those weak of understanding make not over your property which Allāh hath made means of support for you, but feed and cloth them therewith and speak to them words of gentleness (Qur'ān, 5:5).

He directed the address to the society, for the *khilāfah* (the

vicegerency) belongs to it and forbade it to hand over to the weak of understanding their property and ordered it to protect this property and to spend out of it for the good of its owner. In despite of the fact that it speaks about the property of the weak of understanding, it joins it to the society itself that is, it says: *And give not your property to those weak of understanding* (ibid.) and herein is the radiation that the *khilāfah* principally belongs to the society and the properties are owned by *khilāfah* even if the property be of the individuals by private property and has followed on the heel of this radiation the verse indicating to the object of the *khilāfah* and its mission and has described the property saying: ‘‘your properties which Allāh has made means of support for you’’. So Allāh has made the property for the society that is Allāh has appointed the society as its guardian, not for the purpose of squandering it or for freezing it but to discharge your duty in respect of it fructify it and preserve it. So if this purpose is not realized through an individual then society may be made responsible for discharging it.[1]

On this basis the individual is made conscious of his responsibility in respect of the use and disposal of properties before Allāh the High Who is the real Owner of all the things. Likewise He has been made responsible of His accountability to the society, too, because its *khilāfah,* in fact, belongs to it and the ownership of the property is only one of the manifestations and modes of that *khilāfah.* On account of this it is the right of the society to discard him if he is incapable of making proper use of it on account of his immaturity or of mental weakness and prevent equally a person of mature age from the use of his property in a way leading to doing great harm likewise to strike on the hands if he renders his property a material for evil or corruption as the Prophet struck on the hands of Samrah ibn Jundub and ordered his date-palm to be cut off and thrown away since he made it the source of evil, and told him: ‘‘You are a harmful person.’’

When Islam gave the private property the conception of *khilāfah* and divested it of all its mental distinction which had become associated with it with the passage of time and disallowed the Muslim to look to it as a measure for respect and estimation in the Muslim society nor to attach to it any value in the mutual social intercourse. Even in the tradition, reported on

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[1] In the understanding of this verse we have followed one of the various possible interpretations of the Qur’ān.

the authority of Imām ‘Alī ibn Mūsā ar-Riḍā (a.s.) it has come that ‘‘One who meets a poor Muslim and greets him with the *salām* different from the *salām* to a rich man, Allāh will cast on him wrathful look on the Day of Judgement’’.

The Qur’ān has cast awful recrimination upon the individuals who measure their respect and their care of others with the measuring rod of wealth and riches and has said:

> *He* (the Prophet) *frowned and turned away, because there came to him a blind man* (interrupting). *But what could tell thee but that perchance he might grow* (in spiritual understanding)? *Or that he might receive admonition, and the teaching might profit him? As to one who regards himself as self-sufficient, to him dost thou attend, though it is no blame to thee if he grow not* (in spiritual under-standing). *But as to him who came to thee striving earnestly, and with fear* (in his heart), *of him thou wast unmindful* (Qur’ān, 80:1-10).

By this Islam put back the private property to its place and re-instated it to its true field as a kind of *khilāfah* and incorporated it in the general Islamic mould not permitting it to reflect its entity on fields other than its own specific field or to create material standard of respect and estimation since it is a *khilāfah* and not a personal right.

In the sublime form in which Qur’ān has narrated the sense of private property and its reflections on the human mind reveals clearly to us Islam’s belief that the sense of distinctions and the attempts at the extension of the private property to fields other than its original field in the end springs from the misunderstanding of the meaning of the proprietorship and from regarding it as a personal right and not a *khilāfah* which has its own responsibilities and benefits.

And the most sublime of the forms of it is the story which the Qur’ān narrates of two persons one of whom Allāh had enriched with and appointed a trustee (*astakhlafa*) in respect of two of the natural gardens (vide Qur’ān, 18:34-42).

> *... and He said to his companion in the course of a mutual argument ‘‘More wealth I have than you and more honour and power in* (my following of') *men* (34)

believing that his high and elevated (social) position justified him adopting the high tone in which he addressed his companion:

And he went into his garden in a state (of mind) *unjust to his soul* (35) for he was preparing by this declination of the function and the nature of the ownership factors of its devastation and destruction.

> He said: *''I deem not that this will ever perish* (35) *nor do I deem that the hour* (of judgment) *will ever come. Even if I am brought back to my Lord, I shall surely find* (there) *something better in exchange''* (36). *His companion said to him in the course of his argument with him: Dost thou deny Him Who created thee out of dust, then out of a sperm-drop, then fashioned thee into a man?* (37). *But (I think for my part that) He is Allāh, my Lord and none shall I associate with my Lord* (38). *Why didst not thou say when thou wentest into the garden: 'Allāh's will* (be done). *There is no power but with Allāh!'*

and had felt that it is *a khilāfah* which Allāh has given thee in order to discharge what is due to it you wouldst not feel the high brow conceit and arrogant greatness nor would you have been puffed up with the sense of pride and vainglory.

> *If thou dost see me less than thee in wealth and sons* (39) *it may be that my Lord will give me something better than thy garden and that He will send on thy garden thunder-bolts* (by way of reckoning) *from heaven, making it* (but) *slippery sand!* (40) *Or the water of the garden will run off underground so that thou will never be able to find it* (41) *So his fruits* (and enjoyment) *were encompassed (with* ruin), *and he remained twisting and turning his hands over what he had spent on his property which had* (now) *tumbled to pieces to its very foundations, and he could only say ''Woe is me! Would I had never ascribed partners to my Lord and Cherisher!''* (42).

With this contraction of the entity of the private property and the compression of it into its original scope on the basis of the conception of *khilāfah* the ownership is converted into a means not an end. The Muslim who merges in his spiritual and mental entity with which Islam looks upon the property as a means for the realization of an aim of the general *khilāfah* and for the satisfaction of the variegated needs of humanity and not an evil in itself which calls for gluttonous insatiable desire of collecting and hoarding up. There occurs, in respect of this view of the picture of the property i.e. the view of property that it is an instrument, a means - a tradition from the Messenger of Allāh (s.a.w.a.) that ''out of thy property

nothing is yours save that which you consumest by eating or that which you wearest out by dressing yourself with it or that which you preserves by dispensing in the way of Allāh''. In another tradition he is stated to have said ''The servant of Allāh says my property; my property, whereas out of his property that property is his which he has eaten up and consumed, has dressed himself up and worn it out or has given it and has saved as for the rest he will pass away and leave it behind for the people''.

Islam has opposed the end-view of the ownership i.e. the view that it is an end, not merely by the commutation of its meaning and divesting it of all its distinctions other than its original field, rather it has set up in line with that a positive action in order to oppose that view and has opened up before an individual a horizon of more specious range than that of a limited scope and of the present material perspective and a run of the longer distance than a short journey of the private owner-ship which ends with death. It gave the Muslim the good news of the gains of another kind. Gains of more lasting nature, of more powerful inducement, of greater motive to one who believes in them. On the basis of this private property, when it stands as a barrier to the acquiring of those gains nay, at times become a deprivation and a loss. Likewise the renouncement of the ownership, when it leads to the substitute of a bigger nature in exchange for it, may possible become a gainful operation for the life hereafter. It is clear that this belief in the substitute of it in exchange of it, and in the wider perspective and in the spacious (range) of the portion of the gains and profits plays a great positive role in extinguishing the selfish motives of the property and the changing of the end-view to the model view of it. Allāh the High says:

> *... and whatever ye spend from anything He replaces it, for He is the best sustainer.* (Qur'ān, 34:39)
>
> *... whatever of good ye give, benefits your own souls; and ye shall only do so seeking the nearness of Allāh. Whatever good ye give, shall be rendered back to you, and ye shall not be dealt with unjustly.* (Qur'ān, 2:272)
>
> *... and whatever good ye send forth for yourselves ye shall find it in Allāh's presence.* (Qur'ān, 73:20)
>
> *On that day every soul will be confronted with all the good he has done ...* (Qur'ān, 3:30)
>
> *Of the good they do, nothing will be rejected of them for Allāh knowest*

well those pious ones, (Qur'ān, 3:115)

The Qur'ān has compared the widely opened view for profits and losses measuring rod of which does not measure by the only measure of the sense of the present with the narrow capitalist view which possesses no other measure than these measures, it is ever under the shadow of poverty and is frightened by the mere thought of subjecting the private property to objectives more wider and general than that of the motive of hoarding and selfishness because the shadow of awful loss and poverty hovers in front of it from this kind of thinking. The Qur'ān has assigned this narrow capitalist view to the Satan, and says:

The Satan threatens you with poverty and bids you to sordidness while Allāh promises you with His forgiveness and bounties, and Allāh is All-embracing, All-knowing (Qur'ān, 2:268).

THE TIME LIMITATION OF THE SPECIAL RIGHTS

The general theory which fixes the special rights in a manner we have imposed upon these rights a timely limit in a general way, every proprietorship and right in Islam are limited to the time of the life span of the owner of the property and he is disallowed its extension unlimitedly. Therefore, in Islam the individual does not possess the right to decide the fate of his property after his death. Its fate has been decided by the law under the rules and legislative acts of regulation in respect of inheritance which regulate the distribution of the personal property left by the deceased among the relatives. In this respect Islam differs from capitalist societies. The capitalist societies believe that the authority in respect of his personal property extends to a far reaching scope and invests him with the right of deciding the fate and future course of his property after his death and of bestowing it upon anyone he wishes and in any way he seeks to do so.

This time — limitation in respect of the special rights is in fact, the outcome of the general theory about distribution before production which is the basis of these rights. We have already known in the light of the theory that the special rights are based upon two bases. The first of the basis is the creation of utility of a nature for profitable utilization of it by reclaiming it. The reclamation of it gives him the ownership of the utility which he created as a result of his work, and through it his right disallowing others to take away from him that utility is produced. And the other basis is the continuous

profitable utilization of a definite (source of) wealth. It gives the utilizer of it a priority right to the use of the wealth over others so long as he is making profitable use of it. These two bases do not remain intact after his death: for instance, the utility which an individual creates by his reclamation of a dead land naturally is destroyed since profitable availing of its utility as concerning him comes to an end. So any other person's making profitable use of it will not amount to his robbing him of it inasmuch as with his death. He is naturally deprived of the utility, same is the case with the continued profitable utilization in the event of the death. The special rights lose their justifications fixed by the general theory.

Hence time limitation for the rights and private properties according to the *sharī'ah's* law of inheritance constitute a part of the structure of economic doctrine and is connected with the general theory of distribution.

This time limitation expresses the negative side of a part of those laws of inheritance, which declare that the relation of the individual with the personal property he possesses is discontinued at the time of his death. As for the positive side of those laws of inheritance which limit the new owners and regulate the distribution of the property among them are not the outcome of the general theory of distribution before production, but is connected with other connected theories of Islamic economics as we shall see in the forthcoming discussions.

Islam while it laid down time-limit upon the private property confining it to the life time of the owner of it and forbidding to make a will (bequest) in respect of his property and arbitrary disposal as to the fate of his wealth after his death made an exception of one third portion of the left property permitting the owner himself to decide the disposal of that one third portion. This does not come in conflict with the fact that we have learnt about the time-limitation and its nexus with the general theory for the legislative texts which point to the permission to the owner of the one third of the left property explicitly indicate that this permission is in the nature of an exception set up on the basis of a specific good, for it occurs in a tradition by 'Alī ibn Yaqtīn, that he asked the Imām Mūsā (a.s.): ''What portion of the property belongs to the owner of it at the time of his death?'' ''One third'' replied the Imām, ''and one third is a too large a portion''.

A tradition occurs on the authority of the Imām aṣ-Ṣādiq (a.s.): ''Will is for the one forth, and one fifth which is preferably better than the one third''. It has also occurred in the tradition that Allāh the High says to the

son of Adam (man): I have granted you in respect of three things. I have kept concealed (your misdeeds) that which had the members of your family known that would not have buried you. I granted you ample then asked for a loan out of it, then why didst thou not advance it for a good thing; and I assigned to you one third portion at your disposal at your death then why didst not send it as a good in advance.

Then the one third portion in the light of these traditions is a right to incline the owner to the non-use of it for others thank and consider it a gracious gift which Allāh has bestowed upon his *'abd* (slave) at the time of his death, and it is not for the natural extension of the life span of the rights which he has earned during his life. All these things point to the fact that permission to the deceased for bequeathing one third of his property is an exception to the rule and it is an admission of the fact which we have already presented about the time-limit and its nexus with the general theory.

The objective which the *sharī'ah* sought from the legislation of this exception to the rule was to acquire new gains for the social justice for it enables an individual, while he is bidding fare-well to his wordly materials of it and meeting centering a new realm, to avail himself of the advantage of his wealth beneficial to him in the new realm. It is most probable that at the inexorable moments of his departure from his life a Muslim's flame of material incentives and carnal desires of life may have been extinguished — a matter which helps man to thoughts of new kind as to spending of his wealth for his future and for his next life to which he is preparing to shift to. It is this kind of spending to which the term *'khayr'* (a good) is applied in the above-mentioned tradition and in which the individual who does not avail of his right about his making a will by his non-realization of the purpose on account of which he had been given that right is admonished.

At the very time Islam has urged to bequeath one third of his wealth or property, it has persuaded him to avail himself of this last opportunity in the cause of the protection of his future welfare and his life hereafter by allowing this one third to some cause of public good and benefit as a contribution for the consolidation of social justice.

Then the time limit of the property is the fundamental law and the permission as to the one third is an exception prescribed for the purpose connected with other sides of Islamic economics.

End of Vol. 2 Part 1

IQTIṢĀDUNĀ

our economics

المؤسسة العالمية للخدمات الاسلامية

WORLD ORGANIZATION FOR ISLAMIC SERVICES

مؤسسه جهانی خدمات اسلامی

IQTIṢĀDUNĀ

OUR ECONOMICS

DISCOVERY ATTEMPT ON
ECONOMIC DOCTRINE IN
ISLAM

Muḥammad Bāqir aṣ-Ṣadr

Volume Two — Part Two

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In the Name of Allāh,
The All-compassionate, The All-merciful

Praise belongs to Allāh, the Lord of all being;
the All-compassionate, the All-merciful;
the Master of the Day of Judgement;
Thee only we serve, and to Thee alone we pray for succour;
Guide us in the straight path;
the path of those whom Thou host blessed,
not of those against whom Thou art wrathful,
nor of those who are astray.

* * * * *

O' Allāh! send your blessings to the head of your messengers and the last of your prophets,
Muḥammad and his pure and cleansed progeny.
Also send your blessings to all your prophets and envoys.

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِيمِ

اَلْحَمْدُ لِلّٰهِ رَبِّ الْعَالَمِينَ اَلرَّحْمٰنِ الرَّحِيمِ
مَالِكِ يَوْمِ الدِّينِ إِيَّاكَ نَعْبُدُ وَإِيَّاكَ نَسْتَعِينُ
اِهْدِنَا الصِّرَاطَ الْمُسْتَقِيمَ صِرَاطَ الَّذِينَ
أَنْعَمْتَ عَلَيْهِمْ غَيْرِ الْمَغْضُوبِ عَلَيْهِمْ
وَلَا الضَّالِّينَ

اَللّٰهُمَّ صَلِّ عَلٰى
سَيِّدِ رُسُلِكَ وَخَاتَمِ أَنْبِيَائِكَ
مُحَمَّدٍ وَآلِهِ الطَّيِّبِينَ الطَّاهِرِينَ
وَصَلِّ عَلٰى جَمِيعِ الْأَنْبِيَاءِ وَالْمُرْسَلِينَ

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TRANSLITERATION

ARABIC LETTERS

Symbol	Transliteration	Symbol	Transliteration
ء	’	ك	k
ب	b	ل	l
ت	t	م	m
ث	th	ن	n
ج	j	ه	h
ح	ḥ	و	w
خ	kh	ي	y
د	d	ة	ah, at
ذ	dh		(construct state)
ر	r	ال	article **al-** and **’l** (even before the antepalatals)
ز	z		
س	s		
ش	sh		**Long Vowels**
ص	ṣ	آ	ã
ض	ḍ	و	ũ
ط	ṭ	ي	ī
ظ	ẓ		
ع	‘ or ʿ		**Short Vowels**
غ	gh	ـَ	a
ف	f	ـُ	u
ق	q	ـِ	i

تصدير

١- العلامة الكبير الحجّة، والفقيه المجدّد، والمفكّر الاسلامي العبقريّ السيّد محمّد باقر الصّدر (١٣٥٣ / ١٩٣٥ - ١٤٠٠ / ١٩٨٠) تغمدّه الله برحمته، بآثاره الّتي خلّفها للمسلمين عامّتهم ومفكّريهم، وبحياته الحافلة بجهوده وجهاده الّتي قصّرتها الأيدي الأثيمة - بكلّ أسف - لأشهر وأعرف، وأوسع جانبا، وأعمق دراسة، من أن نؤرّخه في كلمة قصيرة مقتضبة نقدم بها التّرجمة الانجليزية لأثره الشّهير (اقتصادنا).

٢- سبق وأنّ عرّفنا قرّاءنا الكرام بأهمّ آثار السّيّد الصّدر في فاتحة التّرجمة الانجليزيّة لكتاب (المرسل. الرّسول. الرّسالة) واليوم اذ ننشر - بعون الله وتسديده - التّرجمة الانجليزيّة (لاقتصادنا) نجد أنفسنا مضطرّين الى أن نلفت انتباه قرائنا الكرام الى ما جاء في مقدّمة (اقتصادنا) نفسه، حيث عرض السّيّد الصّدر في نهايتها نقاطا ستّاً رأى من الضّروريّ أن تلحظ، وأن تلحظ بعناية تامّة.

ولا نزيد على ما قاله المؤلف نفسه رضي الله عنه، شيئا سوى أنّ هذه النّقاط الست الّتي وضعها المؤلّف أمام عينه حينما ألّف الكتاب والّتي أكّد على قرّائه أن يضعوها أمام أعينهم حينما يقرأون الكتاب ويدرسون بحوثه كانت نفس هذه النّقاط

ماثلة أمام أعيننا حينما أقدمنا على نشرالتّرجمة الانجليزية للكتاب، و نؤكّد على الاهتمام والعناية بها بمثل ما أكّد به المؤلّف، رحمه‌الله.

٣- انّ التّرجمة الانجليزيّة لكتاب (اقتصادنا) قامت بها مؤسّسة (پير محمّد-ابراهيم) الباكستانيّة، باقتراح منّا،. و بعد أن تمتّ التّرجمة أحالتها الينا، ولم يكن عندنا، بادئ الأمر من بواعث الثقة والاطمئنان الى صحّة التّرجمة وسلامة النّقل ما يدعونا الى أن نسارع الى نشرها، فبقيت نسخة التّرجمة عندنا الى أن عثرنا على من عهدنا اليه مراجعتها وتلافي ما يراه من نقص فيها، وبعد ذلك عثرنا على نقائص، ولم يكن ذلك عن طريق المراجعة المستوعبة، وكان من حسن الحظّ أن وجدنا من يفقه اللّغتين العربيّة والانجليزيّة، وله اختصاص بالدّراسات الاقتصادية فقرأ التّرجمة الانجليزيّة وقارنها بالنّصّ العربيّ، وتلافي ما أمكنه تلافيه من نقائص وأخطاء كلّ ذلك حسب اجتهاده ورأيه.

وهنا وجدنا أنفسنا قد وصلنا إلى مرحلة كانت نهاية الشوط لما نملكه من امكانيات وما نقدر عليه من جهد وسعي، وبذلك يصح منا أن نسعى، بعون الله، إلى نشر التّرجمة ولا يصحّ أن يوصف عملنا بأنّه مجازفة كان التريّث خيرا منه. ومع كلّ هذا فإنّنا نفتح صدورنا لأيّ نقد و ملاحظة يردنا، و نرّحب بأيّ اقتراح يعود الى تحسين عملنا، و نأمل أن نتلافى ما نجده من نواقص و أخطاء فيما نستقبله، بتوفيق الله سبحانه.

٤ — و نحن - ولله الحمد - إذ ننشر اليوم آخر اجزاءِ التّرجمة الانجليزيّة للكتاب لنرجو الله سبحانه أن يجعل في التّرجمة الانجليزيّة لهذا الكتاب كلّ خير و بركة، وأن يعم به النّفع، كما صنع بأصله العربيّ وأن يجعل عملنا خالصا لوجهه الكريم، انّه نعم المولى ونعم النّصير.

المؤسّسة العالميّة للخدمات الاسلاميّة
(لجنّة التّأليف والتّرجمة والنّشر)
طهران — ايران

١٤٠٤/١٢/١٨
١٩٨٤/٩/١٤

PUBLISHER'S FOREWORD

1. The great Islamic scholar, regenerating jurist and thinker of genius, al-'Allāmah as-Sayyid Muḥammad Bāqir aṣ-Ṣadr (1353/ 1935 – 1400/1980) may Allāh encompass him with His Mercy, because of the works which he bequeathed to the Muslims, both the ordinary and the educated among them, and because of his life, which was filled with effort and striving, and which was cut short at the hands of criminals, he is too famous and well-known for us to give his biography in this brief preface which we are giving to the English translation of his celebrated book, *Iqtiṣādunā,* the Islamic System of Economics.

2. In the preface to the English translation of *The Revealer, The Messenger, The Message* we have introduced the works of as-Sayyid aṣ-Ṣadr to our respected readers. And now that we are publishing the English translation of *Iqtiṣādunā* we find ourselves compelled to turn the attention of our readers to the preface of *Iqtiṣādunā* itself, where as-Sayyid aṣ-Ṣadr has mentioned six points which he deemed necessary for the readers to observe, and that also carefully.

We do not wish to say anything more than what the author has mentioned himself, except that these six points, which he introduced while writing the book and emphasized to his readers to keep in their mind while reading the book and studying its discussions, the same six points were in our mind also when we decided to publish its English translation. And we emphasize, alongwith the author, the careful observation of these points.

3. The English translation of *Iqtisādunā* was prepared by the Peermahomed Ebrahim Trust of Pakistan at our instigation. After completing the translation it was submitted to us, but at that time we did not have the means to be sure and satisfied about its authenticity. So it remained with us until we found the person who could check and make up the defects in the translation. Then again just by the way we were confronted with some defects, and fortunately we found a person who was familiar with both the Arabic and English languages with qualifications in economical studies. He compared the translation with Arabic version and corrected, according to his own views, as much as he could.

At this point we reached the utmost stage of our abilities and facilities for correction of the translation, and so we deemed it right to publish it, by the help of Allāh; and thus it cannot be said that our efforts were reckless and it would have been better to delay the publication. After all these efforts we shall gladly accept any criticism or observation, and welcome any suggestion to improve our work. We hope to correct the defects and mistakes with which we may be confronted in future.

4. Now, by the grace of Allāh, we are publishing the last part of the English translation of this book, and we ask Allāh, the Glorified, to bless this work and to generalize its benefit as He did for the original Arabic version. And may He accept our work sincerely for His Holy Self. He is the best Master and the best Helper.

WORLD ORGANIZATION FOR ISLAMIC SERVICES
(*Board of Writing, Translation and Publication*)

18/12/1404
14/ 9/1984
Tehran – Iran.

Volume Two

Part Two

CHAPTER ONE

THEORY OF POST-PRODUCTION

I – THE THEORETICAL BASIS OF THE POST-PRODUCTION DISTRIBUTION AMONG THE AGENTS OF PRODUCTION [1]

The Upper Structure:

al-ʻAllāmah al-Ḥillī, the Muslim research scholar (*muḥaqqiq*) mentions in his book *ash-Sharā'i',* Chapter on *"Wikālah"* (Agency) that *wikālah* for the labour work of cutting wood or works of similar kind is invalid. For instance, if a person appoints another person as his *wakīl* (agent) to cut wood from the forest on his behalf, the *wikālah* will be null and void. The appointer will not become the owner of the wood cut by his agent, the reason being, that the labour work of cutting wood, from the forest or other similar labour-works in nature produce no effect or special right for a person until and unless the person himself performs the labour or spends directly his efforts in the work of cutting wood or grass or similar labour-works. The purport of the *sharīʻah* (law-giver – the Prophet) as per the interpretation of the Muḥaqqiq (al-Ḥillī) to the *iqāʻ*

[1] While dealing with the theory of pre-production distribution, we were seeking to determine the right individuals acquire in respect of natural raw materials as a phenomenon of their distribution. As these rights were the outcome of labour, the inquiry was directed to the determination of the role of labour as regards these natural wealths. Therefore, the natural wealths which labour changes in this sense becomes included in the post-production wealths. On account of this, the two inquiries, the pre-production inquiry and post-production inquiry — become partially interlaced. This interlacing makes it necessary to take great care in making explicit when contributing ideas from either of the fields of distribution.

(performance) of those works or acts directly by the individual person himself.

1. Here is the actual text (quoted from the above-mentioned book of) al-'Allāmah al-Ḥillī: "As for the acts in which *niyābah* (agency) does not enter (legal force) are those acts in which the governing rule thereof pertains the purport of the *shāri'* (law-giver) to the *iqā'* of these acts by the person himself; for example *ṭahārah* (ritual purification)...; *ṣalāt* (obligatory prayers), as long as one is alive; *ṣawm* (fasting); *i'tikāf* (spiritual retirement); obligatory *ḥajj* for one who can afford; *īmān* (faith); *nadhr* (vow)*; al-qasm bayna 'z-zawajāt* (just deal out between one's wives); *ẓihār* (a man's comparing the back of his wife with his mother or any female within the prohibited degree of marriage; *li'ān* (charging one's wife with adultery); *qaḍā'i 'l- 'iddah* (completion of the waiting period for a divorced woman or after the death of her husband before contracting a second marriage); *janābah* (major ritual impurity); *itqāṭ* (finding of a property of unknown ownership from a public place); cutting of wood and grass."

2. This occurs about *wikālah* in the book *at-Tadhkirah* by al-'Allāmah al-Ḥillī: "As for the validity of *wikālah* in *mubāḥ* (permitted) things like hunting, cutting of wood or grass, reclamation of waste lands, taking in possession of a quantity of water or a thing like it, require more classification."

3. It is mentioned in *Kitābu 'l-qawā'id:* "Indeed in appointing a *wakīl* for proof of properties of *mubāḥ* things like treasure trove or found property of unknown ownership, hunting or catching of game or fish, or labour of cutting of wood or grass, require to be reviewed."

4. A number of jurist sources, like *at-Taḥrīr, al-Irshād, al-Īḍāḥ* etc. share this opinion.

5. Several other jurist sources have not been content with expression of doubts about *wikālah* in such matters or leaving it to be reviewed but have been explicit about its invalidity, in agreement with the *sharā'i'* like *al-Jāmi' fi 'l-fiqh* and *as-Sarā'ir,* is in respect of hunting as ash-Shaykh aṭ-Ṭūsī in his book *al-Mabsūṭ* – in some of the prints – Invalidity of appointing a *wakīl* in case of the reclamation of the waste land and also it is said by: Invalidity of the appointment in case of cutting wood and grass.

6. al-'Allāmah al-Ḥillī links together, *wikālah* (agency) and *ijārah*

(hire-work) and then states that when *wikālah* is in-productive in regard to those works then *ijdrah* is also like it. So just as the appointer does not acquire the ownership of cutting of wood or hunting a prey or reclaiming a waste land by the labour of his agent, so naturally the hirer of the labour does not acquire the yield of the labour of the workman hired by him.[1] Here is the text of what he writes saying in *at-Tadhkirah:* "If we allow that *wikālah* to be valid in such things then we will allow that hiring too to be valid in them. So if a man hires labour to cut wood, or to carry water or to reclaim a waste land, his doing so will be valid and he will become the owner of the product of the work of the hired labour. But if we deny the validity of it thereby we deny the validity of it hereto so the act will be for the hired person.

The research scholar al-Iṣfahānī confirms in the book *al-Ijārah* that "hiring of labour (on nature) is ineffective in giving title of ownership to the hirer of the labour, that is, one who pays the wage money, as to whatever thing the workman acquires possession of through his physical labour. So if the workman takes possession of the property he secures, then it will be his and the hirer will get nothing."

7. al-'Allāmah al-Ḥillī mentions in *al-Qawā'id*: "If a man catches game or cuts wood or picks up grass with the intention that whatever he secures by his work will be for himself and for someone else, that intention of his, will be ineffective. Whatever he acquires will be wholly and solely his.[2]

8. (It is given) in the *Miftāḥu 'l-karāmah* that ash-Shaykh aṭ-Ṭūsī, al-'Allāmah al-Ḥillī and Muḥaqqiq al-Ḥillī, all the three, have given decision that if a person secures possession of some natural wealth with the intention, that what he secures will be for him and for someone else, (such intention will be ineffective in law), the whole of it will be his.

9. It occurs in *al-Qawā'id* of al-'Allāmah al-Ḥillī: "If a man lends a net for catching game with the intention of getting share in the game, the bagged game shall go to the hunts-man and remuneration will be due to him in respect of his use of the net. A number of other jurist sources like *al-Mabsūt; al-Muhadhdhab, al-Jāmi'* and *ash-Sharā'i'* confirm it.

10. In the discussions about hunting in the book *al-Jawāhir* of al-

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[1] Vide Appendix XIV

[2] Vide Appendix XV.

Muḥaqqiq an-Najafī there is: "If a man usurps a tool of hunting and bags game with it, I find no jurist opinion to the contrary that the bagged game will be the property of the hunts-man and not of the owner of the tool, in spite of the fact he has secured the game with the tool which it was illegal for him to make use of, as such ownership of the *mubāḥ* thing was acquired by direct labour and the usurper has realized it in that way. Assuredly, the rent of the tool shall be due from him as in the case of the rest of the usurped accessories, nay, rather this even when he does not catch game with it so as to make good for the loss of advantage passing out of his hand."

11. This is from the book *al-Mabsūṭ* the text of what the eminent ash-Shaykh aṭ-Ṭūsī says in respect of partnership: "If a person authorises another person to catch game on his behalf and that person goes out to catch the game with the intention that the bagged game shall be for the one who ordered it and not for him whose property will be the bagged game? There is one opinion that it is a case like a water carrier's carrying water with the understanding that what he earns will be shared between them and the price of water will be his, i.e. the one who does the work of carrying water and his partner shall be entitled to nothing out of it. So in this case also the bagged game will be the property of the man who did the work of the bagging the game singly by himself and not the property of the person who ordered him. According to another view it will be the property of the man who ordered him, for that was the intention of the huntsman in the catching of the game and intention will be taken into consideration. But the first view is sounder."

12. al-Muḥaqqiq al-Ḥillī mentions in *ash-Sharā'i'*: "If a man gives, for example, animal and another man his water-skin to a water-carrier with the understanding of sharing in the earnings therefrom, no partnership will take place, so in such a case what-ever is earned will belong to the water-carrier and compensation for the use of the animal and the water-skin will be due from him."

From the Theory:

The whole of this upper-structure reveals the basic fact regarding the general theory of post-production distribution, and consequently the material difference between the Islamic general theory of post-production

distribution as it obtains in the capitalist doctrinal (applied) economics.

However, instead of beginning with inducement of the theory from the upper-structure we have preferred to begin with the formulation of a general idea and a common conception of the nature of the theory of post-production distribution through presentation of an illustrative example of it from the capitalist doctrinal system of economics so as to know the scope and range which the doctrinal theory in regard of post-production distribution will have to pursue invariably.

After having given (the example of) the theory in the capitalist-frame, we will present the Islamic theory of the post-production distribution as we hold it as far as to give it a definite form and to bring to light and show clearly the difference between the two theories. Then we will come back to the upper-structure given above – in order to strengthen and support our assumptions about Islamic theory as also to explain our method of adducing them from that upper-structure in which its basic guide-lines and main features are reflected. Thus, the journey of our inquiry will be completed in three stages.

1. The Illustrative Example from Capitalist Economics:

In the conventional school of capitalist economic system, the process of production is, usually reduced to the main factors engaged in the process and the general idea of the distribution of the produced material is based on the partnership of those factors in the material theory, have produced, so every constituent factor gets its share in accordance with role in the process.

It is on this basis that capitalist system of economy basis its distribution of the produced goods or its cash value, in four shares (portions). They are:-

1. Interest,
2. Wages,
3. Rent,
4. Profit.

Wages are the share of human labour or the worker by his being the prime factor in the process of production in the capitalistic theory. Interest is the share of the advanced capital (lent, borrowed); profit, the share of the joint capital used in actual production and rent expresses the

share of nature of specific words, lands.

There have been several modifications in this capitalist method of production on the formal side, wages and profit are included in one group, in the belief that profit is a form of wages for a specific kind of labour, the work of organizing which the organizer of the project (entrepreneur) conducts by bringing together various factors of production, such as capital, nature and labour and his fitting and organizing of them together is the process of production.

On the other side rent is given a wider meaning which goes beyond its terms of (a return form) land, and discovers various kinds of rents from other fields. Likewise, the preferred view of some to give capital a more comprehensive meaning covering all the forces of nature including land.

In spite of these formal modifications, however, the essential view regarding the capitalist distribution has remained intact and firmly fixed during all the adjustments and has undergone none whatsoever of change. This view is the observance of all these factors of production on an equal footing and assigning to everyone of these factors, its respective share from the produced material as a share-holder in the operation and within the terms of its partnership with all the other factors in the completion and production of that produced material. The workman receives the wage according to the very method and on the basis of the very doctrinal theory according to which capital, for example receives its interest, for either one of them, in the established capitalist usage is an agent of production and participant force in the organic mechanism of the operation. So it is but natural that the produces be distributed among their producing factors in proportion fixed by the law of demand and supply and such of the forces as govern the distribution.

2. Islamic Theory and its Comparison with Capitalist Theory:

Islam rejects altogether this material view of the capitalist doctrine and differs from it basically; for it does not put on equal footing the various factors of production, nor considers it a satisfactory form for settling the matter of the distribution of the produced material upon the proportion fixed by the law of demand and supply as the capitalist system

of economy does. On the contrary the general Islamic economic theory of post-production distribution regards the produced material from the natural raw material as the property of the producing man – the workman – alone. As for the material means of production and various tools which a man makes use of in the operation of the production, these have no share from the produced material itself. They are only means which present to man services for breaking in and the harnessing of nature to the object and purpose of production. If these means happen to be the property of an individual other than the workman, then it is a due on the producing man has to pay to the individual who owns these means in consideration of the services through which the producer has reaped the benefit. The money which the producer gives to the owner of the land or the owner of the implement or the owner of the tools which contribute to the work of production does not represent the share of the land or the tools or the instruments themselves in the produced thing, in their capacity of one of the factors of production but means a compensation to the owners of those means, paid by the workmen for the services they have rendered him by allowing him to make use of the means they owned. So in case there does not happen a definite owner for these means other than the producing man, then the term compensation will be meaningless as in such case, the benefit will be a gift of nature not a bestowal of another man's service. So in the Islamic theory of post-production distribution the producing man is the real owner of the material produced from the natural raw material and the material factors of production have no share in those produced material. It considers the producing man only a debtor to the owners of the means he has made use of in the production, so he is responsible for paying compensation to them in consideration of the services the means they owned have rendered him. Then the share of the participant material means in the operation of production bear the mark of compensation in consideration of service rendered and represent (lit: express) a debt, the payment of which is an obligation upon the producing man and does not mean the equalization of the material means and human labour or a partnership between them in the material produced on the equal basis.

In the course of our continuation of the discovery of the general theory of the post-production distribution we shall come to know the theoretical justification for the compensation which the owners of the

material means obtain from the producing man, in view of rising in the productive operation, the means which they own.

So the difference between the Islamic theory of post-production distribution and the capitalist theory in this respect is very great.

This difference between the two theories, Islamic and capitalist, arises from the determination of the status of man and his role in the operation of production. The role of man in the capitalist view is that of means which serve production and not the end which production serves. He is, in this respect, on the same footing with all the forces such as nature and capital sharing in the production. Therefore, he meets with his share from the natural material as a share-holder in and a servant of the production. Therefore, the theoretical basis of distribution of the produced material among man and other material means which share with him in the operation of the production becomes one.

As for the status of man in the Islamic view, it is that of an end not that of means. Therefore, he is not on equal footing with and of the same orders all the other material means in the matter of the distribution of the produced material among man and all the material means on the same level. On the contrary it considers the material means of production servants of man for the accomplishment of the operation of production since the operation of the production is for the sake of man and as such the share of the producing man differs from the share of the material means on the theoretical basis. Hence if the material means belong to a man other than the producing one and the owner of them presents them to make use of them in the production it is a part of his right that the producing man gives him compensation in consideration of the service rendered by him. So the compensation here constitutes debt the payment of which is a responsibility of the producing man in view of the service rendered and does not mean theoretically the partnership of the material means in the produced material.

Thus the status of the material means – assigned to it in the theory of Islam prescribes for them to demand from the producing man compensation as his servants and not as his partners, similarly the status of man in the operation of the production as its end prescribes for man to be the sole owner of the right to the natural material which Allāh the High has prepared for the service of man.

A most important phenomenon which reflects this material difference

between the two theories, – Islamic and Capitalist – is the standpoint of the two system of economics, regarding capitalist of the natural raw material. The Capitalist doctrine permits capital to practice this kind of production. For it is within the power of the capital to hire labourers for cutting the wood from the forest or extracting of petrol from its wells, and pay them their wages – and this represents all the share of the labourer according to the capitalist theory of distribution – and the capital becomes the owner of whatever quantity of wood cut or the mineral products extracted by the labourer and the sale of it, at a price which suits his sweet fancy, is his right.

As for the Islamic theory on distribution, there is no room for such kind of production[1] because capital obtains nothing by way of exploitation of labour for cutting wood or extracting of the mineral and the multiplication of the tools necessary for them, as long as Islamic theory has made direct labour a necessary condition in the matter of acquiring of ownership of natural material and confers solely upon the workman, the right of ownership of the wood he cut or the mineral he extracts. Thus it ends the appropriation of the natural raw material through waged labour. The domination of the capital over these materials which it had appropriated under the capitalist theory simply because of its ability to pay wage and the multiplication of the requisite materials for it, disappears and the domination of man, over the natural materials takes its places.

However the disappearance of this capitalist mode of production is not an accidental event or a passing manifestation or a partial different between the Islamic theory of distribution and that of capitalist economic system but expresses in an explicitly clear form and on the theoretical basis, as we have learnt – the polar opposition between them and the true nature of the content of the Islamic system of economy.

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[1] For what we have learnt from the upper-structure, viz interdiction of procuration (appointing of agents) by Muḥaqqiq al-Ḥillī in *ash-Sharā'i'* for the work of cutting wood and in the procuration work in *mubāḥ* things, interdiction of appointing of an agent for the work of rehabilitation, by ash-Shaykh aṭ-Ṭūsī as transcribed from some copies of his book *al-Mabsūṭ* and the confirmatory assertion by al-Iṣfahānī in the book *al-Ijārah* according to which a hirer of labour does not become owner of whatever quantity of natural material his labourer comes by on the ground of hire-contract.

3. Inducement of the Theory from the Upper-structure:

So far we have presented the Islamic post-production distribution theory hypothetically to the extent it was necessary for the comparison and contrast between it and the capitalist theory as regards its theoretical basis of the distribution of the material among the factors of production.

However to prove the soundness of our conception of the theory it is necessary for us to revert to the upper structure given at the very beginning of our discussions so as to draw from it that aspect which we have supposed as regards the Islamic theory and show its practical religious significance and the extent of its consonance and concord with the conception of it we have presented.

The precepts which we have presented in the upper-structure lay down:

Firstly: It is not valid for the principal to reap the fruits of the labour of his *wakīl* (agent) on the natural raw materials. Hence if an individual appoints another person his *wakīl* for cutting wood from the forest. For example, it will not be valid for him to appropriate the quantity of the wood his *wakīl* succeeds in obtaining as long as he has not conducted the labour himself and cut the wood, because the ownership of it which results from work is the share of the workman himself alone. This fact is quite clear from the first eight quoted extracts in upper structure.

Secondly: The hire-contract is like agency contract for in either case just as the principal does not become the owner of the materials which his agent succeeds in obtaining from nature. Similarly the hire of waged labour does not acquire the ownership of the natural material which his hired labourer secures possession of, simply because of the fact that he pays the requisite wages for the work, since those materials cannot be owned as one's property except by direct labour and work. This fact is clear from the sixty quoted extract.

Thirdly: That if a producing man who pursues labour to obtain natural materials makes in his work use of tools or materials of production which another person owns, there will be no share for these tools in the acquired (products) from nature. Only the producing man will

become a debtor to the owner of the tools for the payment of compensation in consideration of the use he has made of them during the operation of the production. As for the product, it will be wholly and solely the property of the workman. This is clear from the quoted-extracts nine, ten and twelve.

These three points are sufficient for the discovery of the post-production distribution theory which is based on the super-structure of all of these precepts. In the same manner it is sufficient proof of the soundness of the discovery of our theory and our giving to it the very context and features of it we have specified.

So the producing man becomes the owner of the natural material (wealth) he obtains from nature not as a share-holder and a servant of it but on account of the fact that he is the aim which the production serves. So he appropriates all the produced material (wealth), and the other forces and means which serve and take part in the production do not share it with him.

However these material means have claim upon the producing workman, who pursues the work of production against their services because they are deemed to be his servants and not because they are deemed to be on equal footing with him.[1]

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[1] It will be sufficient for us to arrive at these results theoretically from our summary of the later two of the three points the implications of which we have adduced from the upper-structure. So that even if we do not accept the first point, the structure of the theory we have built up will be sound. Let us suppose that the agent produces something from the natural raw material for his principal he does not become the owner of that material which he produces but (his) principal becomes its owner (these two are preferred). (Vide Appendix No. XV). For this does not contradict the principle which holds that ‘‘the producing man alone is the rightful owner of the material he produces because the producing man himself waives his right and he makes it over to another man when he purposes to acquire something from that for another man. The basis which holds that the producing man alone is the rightful owner of what he produces links the point with the dictum of the upper-structure to the effect that the material means of production do not share the produced material with the workman (the producer) and with the other point which holds that the capitalist does not become the owner of the material which the workman secures simply because of his buying the labour from the workman, and for furnishing with requisite equipments for the production.

Thus by making use of the upper-structure given above, we obtain the Islamic basis for the post-production distribution and prove in the light of it on the truthfulness of the conception we have presented according to Islamic theory upon comparison and contrast of it with the capitalist theory in that respect.

Now let us continue our work of discovery and let us take up the study and presentation of another aspect of it through the comparison and contrast of it with the Marxist theory of post-production distribution and the determination of the salient and outstanding difference between them.

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Thus the material difference between the thought of the principal's taking for himself the material his agent secures possession of and the thought of an individual person's appropriation of the material the person hired by him secures possession of became quite close. This second thought is capitalistic in its nature for it gives to cash and productive means directly the right of appropriation of the possible thing instead of human labour, contrary to the first thought acknowledges the right of the workman to the material (he produces) and regards upon his agency of another person for the cutting of wood from the forest, for example, as implied from the workman's giving the ownership of the quantity of wood cut and obtained from the forest by him and his waiving of his right to the material in favour of another individual.

II – STRIKING DIFFERENCE BETWEEN ISLAMIC AND MARXIST THEORY

The Upper-structure :

1. al-Muḥaqqiq al-Ḥillī writes in his *ash-Sharā'i'* in the book *al-Ijārah:* "If a man gives another man an article to do some work on it for him, and if say, for example, a washerman or a bleacher is engaged for that job, then there will be a fair wage for the job. If it is not usual with the jobber to charge a wage and if it is one of the jobs for which there is usually a remuneration, then he can demand the remuneration, for he is the better judge of his intention. However, if it is one of the jobs for which usually there is no remuneration, no heed will be paid to the claimant of it ".

The commentator appends to it the following : If it be known from his intention that he performed the job gratuitously, then it will not be valid for him to put in his demand for remuneration.

2. al-Muḥaqqiq an-Najafī cites in his *al-Jawāhir* in the book "Usurpation": If someone takes by force seeds and sows them, or an egg and hatches it without the consent of the owner, the opinion of many of the jurists is that the real owner is the one from whom the material has been usurped. Rather there is, on the authority of *an-Nāṣiriyyah,* nothing against this verdict but in *as-Sarā'ir,* there is a consensus on this. It is like the principle and norms of the juristic practice.

He (an-Najafī) also quotes another jurist who claims: The green crop and the young bird belong to the usurper because the usurped seed and egg are considered to have been nothing (at first). So the green crop and the young bird are new things which the usurper, as the result of his labour, owns them.

3. In the same book it is mentioned: If someone usurps a land and cultivates it or plants trees on it, then the crops and plants will belong to the planter, and I do not find any disagreement (on this point) among the (Muslim) jurists, on the contrary I find consensus in the book of *at-Tanqīḥ*. But the farmer has to pay rent of the land to the owner of the land (from whom he usurped).

This rule has been confirmed by some traditions. Here is one report of the tradition on the authority of ‘Uqbah ibn Khālid who says: “I asked Imām aṣ-Ṣādiq (a.s.) about a person who had made use of a piece of land to raise crop on it without obtaining the consent of the owner of it. When the crop has ripen the owner of the land came along and told the man who raised the crop ‘You have raised crop on my land without my consent, so the crop you have raised on my land is mine, and I will pay you a remuneration for the labour you have expended on it.’ “ ‘Uqbah says: “Then I asked the Imām: ‘Will the crop be his or not?’ The Imām replied: ‘The crop belongs to the man who raised it, and the owner of the land will have rent for the use of the land.’ “

4. It has been mentioned in *al-Jawāhir* in the book *“al-Mazāri‘“*: In every case, whenever the agricultural contract become invalid it is upon the owner of the land to pay the wage of the labour. If the seed belongs to the labour, then the crop also belong to him, and he has to pay the rent of the land to its owner. But if the seeds are from the owner of the land, then the owner of the land will have the crop too, and he will be responsible for a due remuneration to the labour and implement. However, in case of the contribution of seeds from both of them, the yield shall be proportionately divided between both of them.

From this detail it may be elicited that the owner of the seeds will have the yield accruing from the seeds, be he the farmer who sows them or the owner of the land on which they are sown because it is the seed that constitutes the basic sub-stance of the raised crop. In case the seed belongs to the farmer, no right in the yield is found for the land and only the rent of it is due from the farmer to the owner of the land for the

use of the land for his (farmer's) seed.

5. It is given in *al-Jawāhir* in the book of *"al-Musāqāt"*: In any case, whenever *musāqāt* (share-cropping contract over the lease of a plantation, limited to one crop period) become in-valid, the labour should be paid (according to the mutual agreement), and the fruit belong to the real owner because the growth (of the fruit) follows the original in ownership.

Here is an elucidation of the above text. When a person owns trees which need watering and looking after to bear forth its yield. The owner of the trees gets hold of a care-taker and delivers to him the trees, binding him with a contract entered into with him whereby the care-taker agrees to undertake to look after and water the trees and becomes in lieu of it a partner of the trees in yield according to the contract. So this kind of agreement entered into between an owner of the trees and a care-taker of it, the jurist term *al-musāqāt,* is applied. The jurists have specified the obligation of binding both the contracting parties to the contents of the contract if the term of the contract is to be completely fulfilled. But if the contract loses any of its term and conditions, then according, to *sharī'ah* it has no effect. In this case the juristic text we have cited above specifies that the yield, the whole of it, in case of the invalidation of the contract will be constituted as the property of the owner of the trees. The care-taker will have for his service and his labour of looking after the trees a due-suitable remuneration to which the juristic term *ujratu'l-mithl* (adequate payment) is applied.

6. *'Aqdu 'l-muḍārabah* (contraction of silent partnership) is a particular kind of partnership in which the worker agrees with the owner of the capital to carry in trade his capital on the basis of his sharing in the profit. In case the terms of the agreement are not fulfilled in any sense the whole of the profit will become the property of the owner of the capital, and the worker will have only a due remuneration in certain case as specified by the jurists in *al-Jawāhir.*

From the Theory:

We have until now revealed as much of the general theory of post-production distribution in the Islamic system of economy as was required, for the institution of the contrast and comparison of it with the

same theory, scientifically in the capitalist system of economy. Now we propose to continue our discovery of the guide-lines and distinguishing characteristics of the Islam in the course of its comparison and contrast with the theory of post-production distribution as it obtains in the Marxist system of economy and the demarcation of the most salient differences between the two theories.

We shall begin, as we did in our previous stage with the giving of an idea and a projection into prominence of the most salient difference between the two theories as we believe it, before applying ourselves to the discussion of the upper-structure till after when being afforded of having clearly envisaged conception of the aspects of differences and the doctrinal purport of this difference. We would return to the examination of the supper-structure in order to elicit from its proofs to support the correctness of our (hypostatized) conception and to establish it juristically.

1. THEORETICAL PROOF OF OWNERSHIP

We can sum up the difference between the Islamic theory and Marxist theory (of post-production distribution) in two essential points.

One of the two essential points is as follows:

The Islamic general economic theory of post-production distribution confers upon a working man the private ownership or a right or title to such ownership to every wealth which he produces by his labour on it, only when the basic material on which he carries out the work of production does not happen to be a natural wealth owned by another individual as his private property or such right or title to that property such as wood, the wood-cutter cuts from the trees of the forest or the birds in the air or the fish in the waters, their natural elements that a bird-catcher bags or a fisherman nets or mineral materials which a miner extracts from their mines or a waste land a farmer reclaims and renders fit for cultivation or a spring of water an individual digs up from the bowels of the earth; because all these wealths belong to no one in particular in their natural state, and (only) a productive labour carried out on them gives to the producer a private right to them. But the means of production, as we have already learnt do not share with him in the

ownership of the produce from these wealths.

However, if the basis material on which the man carries out his work of production, happens to be a material which is the private property of another person or to which some other person has acquired a right or title resulting from any one of the bases we have submitted in the Islamic general theory of post-production distribution, then this would mean that the ownership or right or title to the material having been accomplished on a previous distribution of it, there is no room for the conferring of such an ownership or right on the basis of a new production either to a man who works it, or to anyone of the means of production which he employs in carrying out the work of new production, so the one who spins yarn or weaves a fabric out of a quantity of wool which a shepherd owns, will have no right or claim to the possession or acquisition of the wool which he has woven into a fabric or to his partnership with the shepherd on the basis of the labour he has expended in weaving it into a fabric, but the whole of the woven fabric he has woven will be deemed as the property of the shepherd as long as he is the owner of the basic material – that is wool – since the shepherd's ownership of it, neither lapses nor is destroyed by any other person's expenditure of fresh labour on it in spinning it into yarn or weaving it into a fabric. This is to which we apply the term 'the phenomenon of the constancy' in respect of the ownership of a property.

Marxist general economic theory of post-production distribution, however, is the reverse of this. It holds that the worker who receives materials from the capitalist and upon which he expends his effort becomes the owner of it equal in proportion to the new exchange-value he contributes to it by his labour. On account of this, according to the opinion of Marxist theory the worker will be the legal owner of the produced commodity minus the value of the material he (the worker) receives, prior to his productive operation from the capitalist.

This difference between the Marxist theory and the Islamic theory rests upon the Marxist theory's formation of a co-ordination of property with exchange-value on a side and of exchange-value with labour on another side. Marxist theory on the theoretical side believes that exchange value is born of labour[1] and ex-plains the maker's ownership

[1] See *Iqtiṣādunā* (Eng. transl.), Vol. 1, pt. 1, p. 160.

of the material on which he has carried out his labour on the basis of the exchange-value which his work produces in the material and as a result of this it becomes the right of every maker of a thing when he contributes a new exchange-value to the material produced to become the owner of this value which he has embodied in the material by his labour.

Contrary to this the Islamic theory sets apart the ownership of a property and the exchange-value from each other and does not give the maker a right to the ownership of a material on the basis of the new exchange-value which the maker has contributed to the material but makes work the direct basis for a right or a title to it as we have come across in our inquiry and discussion of the theory of post-production distribution. So when an individual acquires ownership of a material on the basis of labour and the basis continues in existence, it will not be permissible for another person to acquire a new ownership to the material even if he were to contribute to it a new value by his labour.

Thus we can recapitulate the Islamic theory as follows. The material for the production of which a man carries out his labour when it does not happen to be already an owned property of another man, then the wealth which he produces will be wholly and solely his own property and all the other forces participating in the production of it will be regarded as the servants of the man and will meet their remuneration at his hand and not partners in the manufactured commodity – the produce on an equal footing with the man. But when the material happens to be an already owned property of some particular individual, then in such a case, it will continue to remain, according to the phenomenon of the constancy of ownership, the private property of that man whatever changes it may under-go as we saw in our example of the wool.

It may appear to some that this ownership – the wool-Owner's appropriation of the woollen fabric made from his wool, keeping to the owner of a material its ownership, would mean that the capital and the material forces in the production operation will appropriate the wealth produced in view of the fact that the (basic) material, in our example, the wool would be regarded economically as a kind of a capital, in the production of the woollen yarn and the woollen fabric – the reason being that the raw material of every commodity constitutes a kind of a capital. But the interpretation of the phenomenon of the constancy of the ownership of a property on capitalist basis is a misconception because the

conferring upon the owner of the wool the ownership of the woollen fabric which the maker of it has woven from his wool is neither constituted on the basis of the capitalist character of the wool, nor does it mean that the capital has a right to take possession of the commodity produced – the woollen fabric in its character as a participant factor or a basic material in the production operation of the woollen fabric.

Although, the wool constitutes a capital in the production of the woollen yarn or the woollen fabric, in its character as a raw material for this production, but the tools which are employed in the spinning and weaving process of it, they too bear the capitalist character and take part in the operation as another kind of capital. Yet neither the ownership of the wealth produced is conferred upon their owner, nor is the owner of these tools permitted to share the ownership of the fabric with the owner of the wool. That the Islamic economic theory of post-production distribution, in preserving intact the shepherd's right to the private property of the wool after the maker of it into woollen cloth, does not aim to single out capital for the conferring of the title to private property in the wealth produced is demonstrated by the proof that it does not confer upon the capital, as exemplified, by the tools and implements such a right, but only denotes the theory's regard for the constancy of right to the private property of the material (wool) firmly fixedly established before the production of yarn or the fabric from it. The theory holds the opinion that mere changing the form of a property does not exclude it from being the property of its first owner even if the change leads to the creation of a new exchange-value in it, and it is this to which we apply the name, the phenomenon of the constancy of the ownership.

In the Islamic theory the capital and the material forces participating in the production operation are not given a right to the wealth produced in their character as capital and the material forces participating in the production operation because in this capacity they are regarded only in their character as servants to the man nothing more – he being the chief pivotal point, the hub of the axis in the production operation, and it is in such a character that they meet with their remuneration from him – at his hand. The shepherd who is the owner of the wool in our example wins the right to the ownership of the woollen fabric only on account of the fact that the woollen fabric was the very wool which the shepherd was

possessing and not because of the fact that it constitutes a capital in the production operation.

2. THE THEORY'S SEPARATION OF THE OWNERSHIP (PROPRIETARY RIGHTS) FROM THE EXCHANGE-VALUE

As for the second point of the essential difference between the Islamic and Marxist theory of post-production distribution, it consists in this, that the Marxist theory, which gives to every individual a proprietary right to the wealth produced in proportion to the exchange-value which he embodies in the wealth produced, holds the belief – on the basis of its co-ordination of the proprietary right with the exchange-value – that the owner of the material forces and means which contribute their share in the act of the production of the wealth enjoys a share in wealth produced because these forces and means enter into the formation of the value of the commodity produced in proportion to the amount of consumption they have suffered during the act of the production of the commodity produced. The owner of the materials, which are consumed exhausted on account of its production becomes the owner of the wealth produced in proportion to the amount his materials contributed their share in the formation of the value of that commodity.

As for Islam, as we have learnt, it separates ownership from exchange-value so much so that even if we take it for granted scientifically that the materials made use of in the production of a commodity are included in the formation of the value of the commodity produced in proportion to the amount of their consumption. It does not necessarily mean that the benefit of the proprietary right in respect of the commodity produced be given to the owner of them for the materials used in production of a commodity are always regarded in the Islamic theory only as servants of the man, and their right is established on this basis alone.

This is the whole of the result of the separation of the ownership of the commodity produced from its exchange-value: the material forces which contribute their share in the act of the production of a commodity always receive their reward – on the basis of this separation as his

(man's) servants on both the bases, and not in the produced commodity itself as included in the formation of its exchange-value.

Inducement of the Theory from the Upper-structure:

Now after having presented the most striking difference between the two theories, Islamic and Marxist, of post-production distribution, as we conceive and suppose it, it is possible for us to put our finger specifically on the roots of this difference, and their justification from the upper structure we have advanced, as has been our method in the discovery of the theory from its above clearly expressed legislative explication.

All the quoted extracts from the upper-structure partake of one phenomenon. It is this that the material used in the act of production of the new commodity remains the property of a particular person, on account of this all the quoted extracts affirm the fact of the material continuing to remain the property of its previous owner even after its transformation in the process of production into a new commodity.

The commodity which its owner delivers to a hired man, to do work on it and changes it, remains, as stated in the first extract, his property. The hired man will not become its owner on the ground of his work on it even if he transforms it into a new commodity and creates a new value, of it and this because of the fact that it is an already owned property.

The worker (farmer) who usurps the land of another person and sows his seeds on it, will own the yield accruing therefrom as stated in the third quoted extract and the owner of the land will have no share of the yield, and that, because of the fact that the farmer is the owner of the seed and the seed is a constituent factor of the basic material which was transferred into the crop (yield) in the course of the tilling operation. As for the land, as a material force participating in the production, is regarded in the Islamic economic theory of post-production distribution a servant of the tiller-man, so he has to pay remuneration in respect of it to its owner. Islam, then, differentiates between the seed and the land and gives the ownership of the crop to the owner of the seed and not to the owner of the land notwithstanding the fact that both of them – the seed and the land – constitute capital in the economic sense and forces participating in the production. This clearly reveals the fact which we have already stated that the owner of the raw material which the

production makes use of and transforms it, only owns the material after its transformation because it is the very material which he owns and not because it bears the capitalist character in the productive operation. If that were not so, then, Islam would not have made a distinction between the seed and the land and would not have denied to the owner of the land the ownership of the crop while it has conferred it upon the owner of the seed in spite of the fact both the land and the seed partaking in the bearing of capitalist character in the general sense of the term capital which includes all the material forces in the production operation.

The fourth and fifth quoted extract agree in establishing the principle which the third quoted extract establishes. It is that the ownership of the crop or the produce is conferred upon the one who owns the seed and it is not conferred upon the owner of the land or the owner of any other factors which give their share in the productive operation and bear the character of being capital in the productive operation.

And the last quoted extract confers the ownership of the profit to the owner of the capital when *muḍārabah* (partnership) contract is made null and void and does not permit its ownership or partaking of its ownership with him, because this profit even though it is mostly the result of the effort and labour which the working partner expended in selling and bringing the commodity before its consumers in a manner which made possible its disposal of it at a higher price. However this effort is only like the effort of the spinner or the weaver of the wool which the shepherd owned and has no effective force according to the theory as long as the material in working partnership contract, wool happens to be a previously owned property.

Now there remains the second quoted extract in the upper-structure, for us to point out in particular. It is an extract which talks of a person who usurps an egg from another person and utilizes it to produce from it a living thing or a quantity of seed which he fructifies into a farm product. The extract states that according to one prevalent juristic opinion the produce – chicken or crop (grain) – is the property of the owner of the egg or the seed and according to another juristic opinion, the produce is the property of the usurper who carries out the labour of its production.

We see from that the extract which presents these two opinions that both of them arise juristically from the difference between the jurists as to the determination of the relation which subsists between the egg and bird

that comes out of its entrails, and likewise between the seed and the crop which is produced from it. The jurist believes that both the things are same, and that the difference between them is one of the degrees – like the difference between the wooden plank and the bed-stead made out of it will adopt the first opinion and will consider the person from whom the egg or the seed is usurped as the owner of the produce – the chicken or the crop. But the jurist who holds the opinion that the material – the egg or the seed – got consumed – destroyed – in the production operation and the thing produced is, in the general common sense, a new thing which arises from the destruction of the primary material on account of the work and labour of the usurper which he expended during his production operation (hatching or tilling) in the opinion of this jurist will be the owner of the produce (chicken or the crop) is the usurper because the produce is a new thing which the owner of the egg or the crop did not possess before this. Hence it is within the right of the one who produced it by his effort, to appropriate the produce in spite of his being a usurper.

It is of no importance to solve here juristically the conflict between these two opposite juristic opinions and to examine their view-points. Our aim here is to avail of its theoretical implication as regards our doctrinal stand-point of the theory for this juristic disputation reveals, with greater clearness and precision that the other quoted extracts of the upper structure do, that is giving to the owner of the wool the ownership of the woollen fabric made out of it, or that giving the owner of any primary material ownership of the material produced or made therefrom after carrying out production operation on it, is not based on the fact that the wool, or any primary material made use of in the production of the fabric or a commodity constitutes a kind of capital in the production of yarn or the fabric but only on the fact of the phenomenon of the constancy of owner-ship which lays it down that he who owns a material continues to retain its ownership as long as the material remains in existence and the Islamic justification lasts. For when the jurists differ as to the produce from the egg or the seed, they link their juristic stand-point in respect of that with their view-point regarding the nature of the relation with the material. This means that the jurist who gives the ownership of the thing produced from the material which was usurped from him, does not hold that opinion on the basis of its capitalist sense and prefers to give its ownership to the owner of the egg or the seed on

account of the fact that he is the owner of the capital or anything produced in the production operation. Now, if this was the basis of the preference, the result of the opinion among jurists in accordance with the unity or the diversity of the material would not have juristically differed because material made use of in the production operation constitutes capital under all circumstances, it being all alike whether it got destroyed, depreciation in the process of production or materialized in the produced thing which resulted from it and from the capitalist point of view it would have become necessary for the jurists to give the ownership of the produce to the owner of the material, the egg or the seed whatever relation there subsisted between him and the material. But contrary to this point of view they give the owner of the material, like seed for example, the proprietary right to the crop only when it is established according to the common usage that the produced thing is the self same thing in a particular state of its transformation. This clearly established the fact that giving the ownership of the commodity produced to the owner of the material and not to the one who carries out work on the material to produce, rests on the basis to which we have applied the name of the phenomenon of the constancy of ownership and does not receive Islamic justification from the capitalist point of view which says that capital owns the commodity produced and that the labourer is an employee of the capital and requires to be paid wage for the work done by him.

Thus we understand clearly the extent of the theoretical difference between the Islamic explanation of the giving the ownership of the wealth produced to the owner of the primary material used in the produce and its explanation on the basis of the capitalist point of view.

3. THE GENERAL LAW OF COMPENSATION FROM THE MATERIAL SOURCES OF PRODUCTION

The Upper-structure:

i. It is valid for a producing man to take on rent from another man tools or materials he needs them for his work and pay to the owner of the tools or materials a compensation agreed upon with him. This

compensation will be regarded a rent to the owner of the tools in consideration of the part they play in the production operation and a debit charged to the account of the producing man which he will have to pay irrespective of the extent (amount) and the nature of earnings which are acquired from the productive operation. About this, the jurists are unanimous.

ii. Just as it is valid to take on rent a plough or a weaving boom, likewise it is valid for a producing man to take on rent a land from one who holds private proprietary right to it or its ownership. For example, if you happen to be a farmer you can make use of another person's land by an agreement with him and pay to him a corresponding compensatory rent against the service his land renders in the productive operation. About this there is an agreement among the majority of the Muslim jurists. However, there are some *aṣḥāb* (companions of the Holy Prophet) and a few Muslim thinkers who deny the legality of the letting out on rent the land relying upon specific traditions of the Holy Prophet. We will, Allāh willing, take up a study and examination of these traditions in our future discussion and explain that they do not go against the prevalent juristic opinion.

Similarly, it is lawful for a man to hire a worker for stitching of clothes, spinning of wool, selling book and the transaction of business. When the hired person has completed the assigned task, it is obligatory upon the employer to pay him the fixed wages (agreed upon).

iii. Islam has laid down a system of constitution of a stipulated partnership between an owner of a land and a farmer according to which the farmer agrees to cultivate the land on condition of the land owner participating with him in what accrues from his labour and the portion of each from the aggregate produce is determined on fixed percentage.

Let us concentrate on the *'aqdu 'l-Muzāra'ah* (sharecropping contract) from ash-Shaykh aṭ-Ṭūsī's book *al-Khilāfah,* in which he explains the implication of *al-Muzāra'ah* and its legal limitations. He writes therein, it is permissible for him – that is, the owner of the land – to give his land to another person to raise something on it, on condition that the land and the seed will be from him, and it is upon the *mutaqabbil*[1] (the accepter, the assumer of the obligation) to undertake

1 *Mutaqabbil* is the agent or factor who makes use of another's land.

the work of cultivation on the land, watering and taking care of it.

In the light of this we learn that the farming contract constitutes of two elements:

One of the two elements is the work of cultivation by the worker and the other, the land and seed from the owner of the land. On the basis of the term fixed as written by ash-Shaykh aṭ-Ṭūsī: "It is not permissible for the owner of the land to conclude *'aqdu 'l-Muzāra'ah* by merely contributing his land and holding the farmer responsible for the labour of cultivation and providing of the seeds at the same time, since the contribution of the seeds by the owner of the land is a basic condition for the fulfilment of the farming contract as stated in the previous texts." When what is stated in this text about seeds is finalized then we can understand in the light of it whatever has come from the Prophet as to the prohibition of the *mukhabbirah,* which is a kind of *Muzāra'ah* agreement in which the owner is required to give the land, and not required to give the seeds. In this way, we learn, from the terms given in the text of which ash-Shaykh aṭ-Ṭūsī has written that to bind the owner of the land to give seeds to the farmer and upon the farmer is to take the cultivation work on the land is the basic condition of the farming contract. Without this the contract would not prove sound.

iv. The responsibility of the owner of the land in the contract is not confined to the mere providing the land and the seeds, but also extends to the expenditure of the soil if the soil requires manure. al-'Allāmah al-Ḥillī has stated in *al-Qawā'id* "If the ground needs manuring the owner of the land should buy it and the farmer shall spread it on the ground." This has been confirmed by a number of juristic sources like *at-Tadhkirah, at-Taḥrīr* and *Jāmi'u'l-maqāsid.*

v. *al-Musāqāt is* another kind of contract which resembles the farming contract. It is a kind of agreement between two persons one of whom is the owner of the trees and tender plants, and the other is a person possessing the skill of watering of them in order to bring forth their yield.

In this contract the worker binds himself to water the trees and sprouts till they bear their yield. In return for it he shares with the owner the yield on the basis of a percentage rate agreed upon in the contract.

Islam allows this contract as has been given in many of the juristic texts.

vi. *al-Muḍārabah is* a legal contract in Islam. In it the worker

enters into an agreement with the owner of the capital to traffic with his capital and sharing in the profit on percentage basis. If the person is able to make profit from the traffic of his capital it will be divided between him and the owner of the capital according to what has been agreed in contract. If a loss is suffered then it will be borne by the owner of the capital alone, and for the worker sufficient is the lost of his labour and efforts rendered null and void. It is not permitted to the owner of the capital to make the worker bear this loss, for if the worker gives a surety against loss under any condition then the owner of the capital will be entitled to no profit as has been stated in the tradition reported on the authority of ʻAlī (a.s.) which says: "Whoever guarantees a merchant (to pay back the capital he has taken from him), for him (the merchant) is to receive his capital and he will have no share in the profit (of that capital)." In another tradition it has come: "Whoever guarantees (the benefit of) *al-muḍārabah* (silent partnership) (in favour of the owner of the capital) – i.e. to hold the agent of *muḍārib* (speculator) responsible for the (benefit of the) capital – for him (the owner of the capital) is to receive his capital and he will have no share in the profit (of that capital)." So the fulfilment of the condition of leaving the risk on the part of the owner of the capital and the agent's not giving him the guarantee for the safety of his capital are the basic condition for the legal validity of the *muḍārabah* contract, without this it will not be partnership but a loan contract, and the profit will all be for the agent.

If the agent enters into an agreement with the owner of the capital to traffic with it, it is permissible for him, if he gets another agent who is satisfied with a less percentage of the profit to hand over to him the capital to traffic with it and partake the difference between the two percentages without undergoing any labour in earning it. For example, he makes an agreement with the owner of the capital on the condition of having the profit and then makes agreement with another agent who is content on the basis of a quarter of the profit, then he makes a gain of an extra quarter of the profit in this way without putting himself to the trouble of doing any work. (And this is not valid in Islamic law.)

al-Muḥaqqiq al-Ḥillī writes under the section of *"al-Muḍārabah"* of his book of *ash-Sharā'i'* that this action is illegal, saying: "Whenever an agent gives a capital to another agent as *al-muḍārabah* with the permission of the owner of the capital on the basis of sharing the profit

between the owner of the capital and the second agent, there is no objection in this matter. But if it is not so, that is, the first agent shares the profit with the second (agent), this is not permitted, since the first agent has done nothing." It has come in a tradition that someone asked the Imām (a.s.): "Is it lawful for someone who has taken a capital (from someone else) on the basis of *al-muḍārabah,* to make a third person share with him in that capital with less profit (for the third)?" The reply was "No."

vii. Lending of money on interest is *ḥarām* (prohibited) in Islam, that is, lending money to another person for a fixed period of time and the borrower's returning at the time agreed upon, the principal with interest is *ḥarām* in Islam. Lending of money without interest is only permissible, so the lender can ask only for the return of the money he lends without any addition to the principal however slight. This precept is considered Islamic in the degree of its clarity and non-ambiguity to rank with the necessities of Islamic legislation.

The following sacred verses of the Holy Qur'ān pointing to it are sufficient:-

> *Those who devour usury shall not rise again except as he rises, whom Satan of the touch prostrates; that is because they say, "Trafficking is like usury." Allāh has permitted trafficking, and forbidden usury. Whosoever receives an admonition from his Lord and gives over, he shall have his past gains, and his affairs committed to Allāh; but whosoever reverts – those are the inhabitants of the Fire, therein dwelling forever.* (2:275)

> *O believers, fear you Allāh; and give up the usury that is outstanding, if you are believers. But if you do not, then take notice that Allāh shall war with you, and His Messenger; yet if you repent, you shall have your principal, unwronging and unwronged.* (ibid. 278-9)

viii. The last sentence of the (above quoted) verses of the Holy Qur'ān which restricts the right of the creditor to the principal sum lent by him and which permits the return of his money if he repents is a clear proof of the order of prohibition to lend money on interest and the

unlawfulness of (charging) any kind of interest however slight it may be for that constitutes an inequity from the implied sense of the verse of the Qur'ān on the part of the creditor towards the debtor.

ix. It occurs in the tradition of the Prophet "Usury is the worst of gains. Allāh fills the belly of the one who devours it with the fire of hell to the proportion of its amount. And if he earns money therefrom neither will Allāh accept his work nor will he cease to be under the curse of Allāh and the angels as long as a *qīrāṭ* (weight, Eq.=1/16 dirham = 0.195g) of it remains in his possession.

x. *al-Ju'ālah* (pay, wages, allowance, reward) is legal in Islamic *sharī'ah;* that is, one promises to do an allowable intended work. For example, when one says he who finds out a book he has lost, he will have a dīnār or he who tailors his garment will have one dirham. The dīnār or dirham is the return the owner of the book or the cloth takes upon himself to pay to one who does the specific actual work in connection with his property. It is not necessary that the wage be a specified sum such as a dīnār or a dirham. It is permissible for a man to make it unspecified in its nature that is he may say that whosoever cultivates this ground of mine, he may have the half of the produce; or the one who brings back to me my lost pen, he will be my partner for the half of it; as has been specified by al-'Allāmah al-Ḥillī in *at-Tadhkirah,* by his son in *al-Īḍāḥ,* by ash-Shahīd in *al-Masālik* and by the Muḥaqqiq an-Najafī in *al-Jawāhir.*

The difference between the *ju'ālah* and hiring on wage basis juristically lies in the fact that if, you, for example, engage a person on hire for tailoring your garment, you become, according to the hire-contract, the owner of the service (profit) of the employee, that is the service (profit) of his tailoring work just as the employee becomes the owner of the wage specified in the contract. But if you stipulate with the man who tailors your garment to give him one dīnār for tailoring it you do not become the owner of (the service) of tailoring work just as the tailor does not become the owner of anything for which you are responsible unless he carries out the work. If he does the tailoring work then he will have due to him one dirham from you which you have stipulated to give him for the tailoring work.

xi. *al-Muḍārabah,* the tradition about which has been already mentioned in the sixth extract, is limited as defined in law, to the extent of commercial operations of buying and selling. If a person possesses

commodity (goods) or cash is permitted to enter into agreement with a particular factor to traffic with his goods or money or to buy goods with his money and sell it; and partnership with a factor in profit is on a ratio of percentage as mentioned in the sixth extraction.

al-Muḍārabah, however, is not valid in other than commercial orbit defined legislatively as buying and selling operations. If a person for example, possesses an article or tool of production, to enter into *a muḍārabah* contract with a factor (*'āmil*) on the basis of it, for if he gives his tools of production to the factor to make use of it for production he will be entitled to impose giving to himself neither a share in the profit resulting from the production operation carried on with his tool nor in the produce on a ratio of percentage.

al-Muḥaqqiq al-Ḥillī, writes in the book of *al-Muḍārabah* of *ash-Sharā'i'* on account of this, saying: If the owner of a hunting paraphernalia, for example, gives it to a hunter on condition of one-third share in the game bagged with it and the hunter agrees to it and hunts the game, this will not constitute, *a muḍārabah* deal, and the bagged game shall be the property of the hunter who secures it and the owner of the hunting paraphernalia will have no share of it except rent due from the hunter in view of the use of the paraphernalia.

From this we learn that mere participation in the productive operation with tools and materials does not justify the owner of the tools or materials to claim a share in the profit. The owner of the tools or materials is allowed to share in the profit with the one who carries on the commercial activity only when he offers to him goods or cash and charges him with the duty of trafficking with it by way of buying and selling on the basis of sharing in the profit.

Just as constitution of *mudārabah* and participation in the profit on the basis of tools of production so also the constitution of *muzāra'ah* contract – a contract which we have come across in the third extract – is not valid for a person to share with the farmer in the agricultural product the farmer produces merely by giving to the farmer tools of production such as plough, bullocks and other such tools. However this kind of partnership is possible for one who gives as his share seed along with the land as we have learnt from the text from ash-Shaykh aṭ-Ṭūsī, mentioned previously.

xii. It is not valid for a man to take on lease a land or production-

tools on a specified rent, then lease it out to another person on a higher rent unless he does some work on the land or tools justifying collection of higher rent. If you happen to take a land on lease for ten dīnār, then it is not legally permissible for you to lease it out to another person and demand from him a rent fatter than the rent you have paid to the owner of the land unless you have expended labour on improvement and preparation of its soil justifying the difference which you acquire.

A group of great jurists, such as as-Sayyid al-Murtaḍā, al-Ḥalabī, aṣ-Ṣadūq, Ibnu '1-Barāj,ash-Shaykh al-Mufīd, ash-Shaykh aṭ-Ṭūsī have specifically given this verdict in agreement with many traditions – which have occurred in this connection some of which are as follows.

a. Sulaymān ibn Khālid reports a tradition from the Imām aṣ-Ṣādiq (a.s.) that he said, "I dislike. I dislike that I take a quern (stone-hand mill for grinding grain) on a fixed rent and then lease it to another person on a higher rent than the rent at which I took it on lease, except when I make some change in it."

b. On the authority of al-Ḥalabī (it is stated that) he says, "I asked al-Imām aṣ-Ṣādiq (a.s.): 'Can I enter into a tenancy (lease) contract for a land holding myself responsible for one-third or one-fourth, then I enter into a tenancy (lease) contract in respect of the land With someone else holding him responsible for one-half?'. The Imām replied: 'There is no objection'. I then asked, 'Can I lease it for one thousand and lease it to someone for two thousand?' The Imām replied, 'No, it is not permissible'. I asked him, 'Why?' He replied 'Because (in) this later (case the amount) is guaranteed, (in) the former (case fixed amount) is not guaranteed' ".[1]

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[1] The substance of the detail which this text and the text following is as under:

That is the difference in the two cases, the case of lease (tenancy) contract and the case of *muzāra'ah* (farming contract) In the case of *ijārah* contract, when a person takes a land, for example, on hundred dīnār it is not permissible for him to give it on lease to another person for more than hundred dīnār if he himself did not work on the land. But in the case of *muzāra'ah* (farming contract) when the man agrees with the owner of the land and the seed to cultivate his land and to share with him in the profit on the basis of, say, fifty percent, in that case it is allowable for the man who undertakes the cultivation of the land to give it after that to another man who manages the cultivation of it on condition of paying him thirty percent

c. In a tradition reported by Isḥāq ibn ‘Ammār on the authority of aṣ-Sādiq (a.s.) it is stated that the Imam said: “If you take lease of land holding yourself responsible for gold or silver then do not lease it to someone else to make him responsible for more gold or silver fixed in the contract. But if you have taken the land on lease making yourself responsible for a return of one-half or one third then you can execute the same transaction with someone else holding him responsible for a higher share than you have made yourself responsible for in your contract because gold and silver are guaranteed amounts”.

d. Ismā‘il ibn al-Faḍl al-Hāshimī reports: “I asked Ja‘far ibn Muḥammad aṣ-Ṣādiq (a.s.) about a man who takes on lease from the sultan a tax-land for a fixed sum of dirham or for a fixed quantity of grains. He then lets it on rent and stipulates with the one who tills it that he will share in the half or less than half of the yield, then there is some surplus from the (yield of the) land, will it be fit for him to take it?” The Imām replied, “Yes if he digs a canal or does something which helps

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and keep to himself twenty percent.

The text tries to explain this difference between the case of *muzāra‘ah* and the case of *ijārah* and mentions in justification of it that this is guaranteed *(maḍmūn)* and that is unguaranteed. The text (tradition) means to convey by this accounting of it *(maḍmūn/ghayr maḍmūn,* that is, guaranteed/unguaranteed) that the second lease of the land which he takes on lease from the one who had taken it on lease before him, that is the first lessee, is guaranteed for a fixed agreed sum in the first lessee contract, so a fixed rent is guaranteed in the contract itself. But the farmer who receives from the lease according to farming contract (*‘aqdu’l-muzāra‘ah*) to the land to work upon, guarantees nothing to the first lessee. So whatever the first lessee acquires as a result of the farming contract is not guaranteed in the farming contract itself. The tradition means to convey that the difference which accrues to the first lessee when he gives on lease the land for a sum higher than the sum he takes it on lease, is guaranteed in the lease-contract so it is invariably necessary that a work, prior to the contract, is carried out to justify this guaranteed gain, for the *sharī‘ah* does not acknowledge a guaranteed gain except in return for a work. As for the difference which accrues to the lessee, if he, for example, tills the land for half is not guaranteed in the farming contract itself, so it is not necessary that the first lessee does some work prior to the farming contract to justify this gain.

those who cultivate it, then the surplus will be his”.[1] He says, “I then

[1] The explanation of this tradition is: If a person takes on lease a land for one hundred dirham and then gives it to a farmer to cultivate it on the basis of partnership with the producer on percentage ratio, let us suppose half (fifty percent) and the half is more than one hundred dirham, it is not (legally) permissible for the lessee to pocket the additional sum, unless he expends some labour on it, such as digging of a canal or such like things.

Many of the jurists remark that this tradition leads to abolishing the difference between *ijārah* and *muzāra'ah.* It is not permissible for a lessee leasing with less and then to take advantage of the difference between the two rents without any work. Similarly it is not valid for him, according to this tradition to acquire the disparity resulting from the farming contract.

On account of this, this tradition clashes in their opinion with the two previous traditions since these two traditions lay emphasis on the difference between the lease and farming contract and on the fact that the difference is not valid without work, but the difference resulting from the percentage ratio difference in the two farming contracts is valid.

But the fact of the matter is that the tradition go well together and there is no contradiction between them. The explanation of this by juristic mode of discussion is, that the two previous texts tackle a specific aspect, that is, the difference between the agreement of the lessee with the owner of the land and his agreement with the farmer who tills the land. The profit which the intermediary lessee between the owner of the land and the farmer who actually tills the land acquires, is the result of this disparity. Texts’ tackling of this aspect is that the profit which the person who is an intermediary between the owner of the land and the farmer who actually tills the land is the result of the disparity (in the percentage ratio) between the two farming contracts. It is legitimate even if the intermediary person does not do any work on the land before the farmer undertakes to till it for a less percentage ratio if the disparity between the percentage ratio is the result of the disparity of the two lease-contracts then it is illegal unless the lessee does specific work on the land before he lets it to a person who agrees to work for a less percentage ratio of return.

However the text of the last tradition in the report of al-Hāshimī considers the work of the intermediary lessee like the digging of the canal and such other things a condition for the validity of the farming contract he enters into agreement with the factor (the farmer) and consequently a condition for the legitimacy of availing of the extra resulting from the difference between what he gives to the land-lord and his appropriating what results from the actual work.

In order to know that import of this tradition does not crash with the two preceding traditions, it is necessary for us to know:

Firstly, the work which the text in al-Hāshimī's report of the tradition, considers the condition for the validity of the farming which the contract agreement intermediary lessee executes with the farmer who undertakes to till it is only the work which is carried out after the conclusion of the farming contract agreement not before its conclusion. This is borne out by his (the Imām's) words (''Yes, if he digs a canal or does something where-by he helps then it is his"). The meaning of his digging the canal or his doing work and his helping them thereby is that these works were accomplished (executed) after the conclusion of the farming agreement he entered into with them. But if the lessee digs the canal before he gets persons whom he farms out the field to share in the produce then this digging cannot be described as done for helping them or done on account of them. The words in the tradition are indicative of the fact, is the work which is made a condition in this text of the tradition, is the work which is done after the conclusion of the farming contract while as for the work which is made a condition in the two preceding traditions for the validity of the lease contract with a higher rent is the work of the lessee which he carries out before he leases out the land for a rent higher than the rent at which he takes the land on lease.

Secondly: The extra (a higher) rent is not supposed in this tradition in the contract. Its resulting is an accident. The lessee leases the land for a specified rent. The contract states that each of the contracting parties will have half of the yield and half is an unspecified amount by its nature. It is just possible that the amount may be less than the rent (return) which the lessee has paid to the person from whom he leases it. So likewise it may be equal to it or more than it. The extra amount about which the tradition talks is not supposed from the nature of the contract for the contract by its nature does not impose upon the farmer who actually tills the field to pay the intermediary lessee a higher rent than the intermediary lessee pays to the owner of the land. It only binds the working farmer in the contract to pay a specified ratio of percentage of the produce to the owner of the land irrespective of the amount, or the more or less of it than the amount of rent the intermediary hands over to the owner of the land.

When we look at these two matters we can say that the condition of work in this tradition — the tradition of al-Ḥāshimī, on the intermediary leases between the owner of the land and the farmer who actually tills the land is not for the sake of the justification of the more amount the intermediary obtains as a result of the difference between the amount of rent he pays to the landlord and the amount as per the ratio of percentage he receives from the farmer who actually tills the land. Let us take it, for example, that this ratio of percentage is half-half (fifty-fifty). Rather the stipulation of the term and condition of work upon the intermediary lessee is only for the validity of the farming contract and for the fulfilment of its legal substansives, as to its being a specific contract irrespective of any addition or demotion. That is because of the juristic assumption that in the contract of farming

asked about a person who takes on (tenancy) lease a taxed-land for a fixed sum of dirham or for a quantity of grain then lets it piece by piece or by *jarib* (a fixed land measure five-eighth [5/8 of an acre]) then there is surplus over the sum for which he had taken it on lease from the Sultan while he spends nothing on it, or he gives on lease of tenancy for cultivation giving those who cultivate it seeds and expenses of cultivation, then there is surplus over the sum for which he has takes it on lease will the soil be his or not? The Imām replied: 'It will be his if he takes the lease, spends something on it and develops it then there is no objection to what you have mentioned' ".

e. A tradition reported by Abū Baṣīr from aṣ-Sādiq (a.s.): that he

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it is not sufficient that the landlord offers merely his land, rather, if the contract is to be valid, it is indispensable for him to bind himself to give something other than land. It is indicated in that juristic text which we have transcribed from ash-Shaykh aṭ-Ṭūsī in the third quoted extract. In this juristic text contribution of seed is made obligatory upon the landlord and the supposed thing which the text occurring in the tradition reported by al-Hāshimī tackles, it is not supposed that the intermediary lessee binds himself to give to the one who actually tills the land, seeds so it is indispensable for him that he may be made responsible to give his share of work with the tiller who farms out the field for a share in the produce.

From this it may be concluded that the owner of the land — the owner who holds the ownership of the land or owns the benefit accruing from it who engages a farmer who farms out the field for a share in the produce it is indispensable for him to join in the labour along with the farmer and contribute his share of labour or give seeds or expending of such like thing, his mere giving his land will not do.

The explanation of the text of al-Hāshimī in this light does not clash with its general meaning and retains intact the difference between muzāra'ah (farming) and *ijārah* (lease) as has been fixed by the two preceding traditions because the work, which makes allowable of giving the lease of land on a rent higher than the rent which he pays on his taking of it on lease is the work which he does before he concludes the contract of lease. Its importance lies in the validity of the lease-contract; while as for the work which makes it allowable for him to give it to a farmer who tills the field for a share say half, in the produce is a work which the intermediary lessee puts in before he executes the farming contract. Its importance lies in the validification of the principle of the farming contract not only for the validity in the disparity of the return..

said: "If you take lease of a land holding yourself responsible for (a fixed amount of) gold or silver, then do not lease it to someone else making him responsible for a greater amount, for both gold and silver are *maḍmūn* i.e. guaranteed".

f. There is a tradition reported by al-Ḥalabī on the authority of aṣ-Sādiq (a.s.) about a person who rents a house then he rents it to another for a higher rent than he had rented it. The Imām said "It is not proper for him to do so unless he makes some changes in the house".

g. It is in the tradition reported by Isḥāq ibn 'Ammār that al-Imām al-Bāqir (a.s.) used to say: "There is no objection to a person's taking on hire a house, a land or a boat then give it on hire at a rent higher than the rent at which he hires it. Unless he made some improvement therein."

h. Samā'ah narrates a tradition saying "I asked the Imām about a man who purchases a pasture in which he used to graze his flock, at fifty dirham or for a less or more sum. Then he wishes to join with him those who used to graze their flocks along with him making them responsible for the price before he joins them with him! " The Imām said: "He may join whomsoever he wishes for a part which he gives something and if he joins them with him making them responsible for forty-nine dirham and his sheep be for one dirham, then there is no objection. But if he grazed his flock for a month, two months or for more months even then there is no objection if he joins them provided he makes it clear to them. However, it is not lawful for him to sell it for fifty dirham and graze his flock with them or for more than fifty dirham and not pasture with them unless he has already done some work on the grazing ground, the digging of well or cutting out of a canal, to help therein, with the willing consent of the owners of the pasture. Then there is no objection to his selling it at sum greater than at which he purchases it. Because he does some work so it is quite proper for him to do so."[1]

Just as it is not permissible to one who takes on lease a land or means

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[1] Hereby, the word *'bay''* is not intended in the specific sense of the word — buying or selling and this is clear from its use in context with his (unless he does some work . . . with the willing consent of the owner of the pasture). This shows that the pasture had its owner. This does not go well with the statement that the herdsman had in fact purchased it. You should take the general meaning of the word, *bay'* applicable to taking on lease.

or tools of production to lease them at a higher sum, so, also it is not permissible to him to enter into agreement with a person for executing a work at a specific rate of return and then to make a contract with another man to do the work in return for an amount less than the amount which he obtains by his first agreement and keep for himself the difference between the two rates.

In the tradition reported by Muḥammad ibn Muslim states that he asked al-Imām aṣ-Ṣādiq (a.s.): "If a man takes to do a work on contract then he himself does not do that work but gives it to some other person, can he pocket the profit therefrom?" He replied: "No, unless he has done some work." In another tradition, it is stated that Abū Ḥamzah asked al-Imām al-Bāqir (a.s.): "If a man takes to do a work (on contract) but does nothing and gives it to someone else to do it, can he pocket the profit (arising) therefrom?" The Imām replied: "No." In a third tradition, it is stated that the Imām was asked about a tailor who takes a tailoring work on contract cuts the cloth and gives it to someone else for sewing, can he take the surplus? The Imām replied: "There is no objection, for he has done some work." It is stated in a tradition reported by Mujma‘. He says that he asked Abū ‘Abdillāh, aṣ-Ṣādiq (a.s.): "Can I take a piece of cloth on contract to stitch it then give it to boys to stitch it at two-third of the amount? The Imām asked: ‘Did you not do therein any work?’ I replied: ‘I cut it and purchased thread for it’. The Imām replied: ‘There is no objection.’" In a tradition, it is stated that a goldsmith asked Abū ‘Abdillāh aṣ-Ṣādiq (a.s.): "Can I take a work on contract, then give it on contract to boys working under me for two-third of the amount?" The Imām replied: "It would not be proper unless you do the work with them."

The Theory:

We examined in the preceding theoretical field that when work is carried out on a substance which was not already a property of someone else and were able to discover quite clearly the Islamic theory of post-production distribution in such a case confers upon the man who carries out the work, the whole. of the wealth, on which he carries out the productive work and does not give a share in it to the material factors because they are forces which serve the producer of it and are not his

equals. They receive their compensation from the man and do not share the produce with him.

We also examined when the work is carried out on a substance (material) which is the property of someone else such as when a spinner spins into thread the wool which belongs to a shepherd, and learnt from the view of the theory in such a case that the material (substance) continues to remain the property of the owner of it, neither the work nor all the material factors which take part in the production operation will have any share of the produce, only a compensation the owner of the material (substance) shall have to pay to the material factors according to the service they render in transforming and improving of the material.

We now mean to study through the new upper-structure these compensations which the factor or the sources of production obtain under these circumstances and to find out the limits, kind and the theoretical basis of it subsequently.

With the delimitation of the kind of compensation which is allowed to the sources of production, such as labour, land, tools of production and capital, we will learn what is the extent to which Islam allows the acquisition of the earnings resulting from the ownership of one of these sources and what are its theoretical justification in these earnings on the basis of the ownership of these sources.

1. The Regulation of the Upper-structure:

Let us summarize from the process of the regulation of the new upper-structure, the general results which lead to it, and then to unite those results into a well-coordinated theoretical composition.

Two modes for the determination of the recompense to which the work is entitled are allowed according to the upper-structure of the Islamic legislation and it is left to the worker the right to choose either of the two modes he wishes.

One of the modes is, *‘ujrah’* (a return hire, wage) and the other share in the profit or the produce. A worker is entitled to demand a specified amount of money of a sort as a recompense for the work he does, so he is entitled to ask for a share in the profit or the produce, and enter into agreement with the owner of the property (*māl*) for a percentage ratio of profit or the produce specified to constitute his recompense for the work

he does. The first mode is distinguished by an element of security. When the worker is content that he may be recompensed with a limited specified amount of money – and this is to which we apply the term, *ujrah* (recompense), the owner of the property will have to pay to him this specified amount of money without looking to the results of the work and to what accrues from the produce as to gains or losses. But if the worker chooses to join into partnership with the owner of the property in the produce and the profit on the percentage ratio basis with the hope to obtain a greater return then in that he links his fate with the work he pursues and thereby loses the security, since it is quite likely that he may obtain nothing if no profit accrues, but then as an offset against the security which he forgoes he obtains an open unlimited return surpassing by for the limited return because the amount of profit or produce is a quantity which is likely to increase or decrease, so to fix the return from work upon profit or produce will mean to subject it to increase or loss. So both the modes have their distinctive characteristic.

Islam has organized the first mode – *ijārah* – by the legislative enactments regarding *ijārah.* We have seen this in the first quoted extract and the second mode the sharing in the profit or produce by the legislative enactments regarding *al-Muzāra'ah, al-musāqāt, al-muḍārabah* and *al-ju'ālah* as we come across them in 3, 5, 6, 10 quoted extracts. In the farming contract worker-farmer can enter into an agreement with the owner of the land and seed to sow the seed in the land on the basis of both sharing between them the produce. And in the *musāqāt* (watering of the trees) contract the one who undertakes the work enters into agreement with the owner of the trees wherein he may bind himself to water and look after the tree in return for the owner of the trees giving him a share of the yield on the basis of a percentage ratio. In the *muḍārabah* contract the working partner is permitted to traffic with the goods of the owner on the basis of dividing the profit accruing from the selling of those goods. In the *ju'ālah* it is allowable for a merchant of wood for example, to declare his being ready to give any person who makes out of those pieces of wood bed-stead, half the value of the bed-stead, so in accordance with this, the worker becomes linked with the fate of the operation he carries out.

In both of these modes for the determination of return to the worker, it is not valid for the owner of the goods or money to impose any loss

upon the worker, rather the entire loss will be borne by the owner of the goods or money. If a worker has linked himself with him on the basis of *muḍārabah* contract deal then his expending his labour in vain is a sufficient loss for him.

However, the materials and tools or production – that is the things and tools are made use of in the course of production, like the spindle/spinning wheel or the plough, for example, if they are used for spinning wool or ploughing a field then the return for it is confined legally to one mode and it is compensation/wage, so if you wish to make use of a plough belonging to someone else or a net to be found from a certain person, then you may take the plough or the net on hire from its owner as is stated in the second quoted extract from the above given upper-structure. The owner of the plough or the net cannot demand a return for the use of his plough or net by way of a share in the profit. The enjoyment of a share in the profit on the percentage ratio basis, which is permitted to a labour, is legally forbidden to the owner of tools of production. Hence the owner of the tools of production has no right to enter into *muḍārabah* partnership with a worker on the basis of it, that is, for example, a man possesses a net, he cannot give it to a hunts-man to catch game with it and share the profit with him. This we see in the quoted extract no. 10 of the upper-structure. In the same way for a man who possesses a plough a (pair of) bullock and agricultural tools, to farm a field with it, it is not valid to give them to a farmer to use them for farming operation and participate in the produce with him as has already been stated in the quoted extract no. 3 of the upper-structure, since we learn from the text of ash-Shaykh aṭ-Ṭūsī that a farming contract can be made between two individuals on the basis of one contributing the land and seed and the other contributing labour, so for the contract's execution it is not sufficient that the party of the first part gives only tools of production. The same case applies to *ju'ālah* also where the agreement allows a maker of the wooden bed-stead to join the owner of the wood in the profit as has been given in the quoted extract no. 8 (of the upper-structure). The owner of the wood may make over half of the profit to anyone who makes bed-stead from his wood. But it does not permit him to enter into *ju'ālah* agreement whereby he gives one half of the profit to the one who provides him with the tool he needs for cutting the wood and constructing the bed-stead therefrom because *ju'ālah* in Islam

represents a return which a person determines before hand for a work he likes to be done for him not a compensation or return for any kind of service rendered.

Anyway, the tools of production have no share in the profit but can only demand compensation or rent so that the gain resulting from the ownership of the tools of production is narrower in the scope than the gain resulting from labour, for the former is allowed to one kind of mode of gain, while the labour is allowed two modes of gain.

The case of commercial capital is the reverse of that of the tools. No gain is allowed for it on the basis of wages. It is not permitted to the owner of the money to give his money on credit at interest, that is to say, to give it to a factor to traffic with it and demand from him for his use of it, for the wage enjoys the distinction of guarantee and disconnection with the outcome of the operation as well as the losses or profits with which it is fraught such a loaning of money is *ribā* (usury) and is *ḥarām* (strictly forbidden) by the Islamic law, as has been stated in the 7th quoted extract.

However the owner of the money or commodity is allowed to give his cash or stock-in-trade to a factor to traffic with it only on condition that if there accrues any loss from the trans-action he alone will bear it and if there accrues any profit from it, then he will share it with the factor on the agreed percentage ratio basis. This sharing in the profit, with the bearing of the burden of loss is the only mode which the commercial capital is allowed to adopt.

From this we learn that the tools of production and the commercial capital are the reverse of each other as to the lawful mode of earning gain. Each one of them has its own mode while in both the modes of earning gain is allowed to the agent (*‘āmil*).

As for the land, a rugged ground calling for the toil of labour of gain from it is allowed to its owner on the basis of rent, and he is not allowed to have a share in the product and the profits accruing from tillage.

Certainly, the owner of the land shares in the profit on the percentage ratio basis, in the share cropping contract (*‘aqdu ’l-Muzāra‘ah*). But we have learnt from the jurist text of ash-Shaykh aṭ-Ṭūsī as per the extract no. 3, that the farming contract is allowed only between two persons one of whom is the agent (farmer) and the other, who gives the land and the seed. So the owner of the land is also the owner of the seed according to the

opinion of ash-Shaykh aṭ-Ṭūsī, as appears from the text given, and his share in the product is not on the basis of the land but on the basis of his ownership of the material and that is, the seed.

2. The Acquisition of Gain Stands Upon the Basis of Expended Labour:

After having set in order the upper-structure and summing up its general phenomena, it is easy for us to reach the doctrinal (normative) side of the theory which binds and unites together that phenomena, and to know the norm which explains the kinds of the acquisition of gain which result from the ownership of the sources of production and justifies permission in respect of both of the two modes and the prohibition of either of the two modes.

The norm, which combines all the legal precepts of the upper-structure on its discovery or its proceedings, is that, the acquisition of gain (*al-kasb*) stands on the basis of labour expended in the course of an undertaking. The expended labour is the only one basic justification by the one who expends it for the acquiring of recompense from the enterpriser who engages the labour on account of it. Without a person's sharing in the expenditure of labour there is no justification for his acquisition of gain.

The norm has its affirmative (positive) sense and purport and its negative sense and purport. On the positive side it lays down that acquisition of gain on the basis of labour is valid and on the negative side, it declares the nullity of the gain which does not stand on the basis of the expenditure of labour on an undertaking.

3. The Affirmative Side of the Sense of the Norm:

The affirmative (positive) side is reflected in the prescriptions regarding hire or renting – quoted extracts nos. 1, 2. These prescriptions permit an employee (a labourer) whose service has been engaged for a particular projected work to receive wage by way of compensation for the labour expended by him on that project.

The prescriptions permit one who owns tools of production to give them to another person to make use of them in the project in consideration for a specified wage which he received from the

undertaker of the project in view of the fact that the tools embody the labour stored in them and this labour, disintegrates in the course of its employment in production operation. For example, the spinning wheel is an embodiment of a specific labour, made from an ordinary piece of wood as a spinning tool. This labour stored in it is expended gradually during the spinning operation so the owner of the spinning tool has a right to acquire the earning of his labour as a result of the depreciation of the labour stored in the tool. So the wage or hire which the owner of the tool of production acquires is a kind of wage or hire which an employee or a hired labourer receives. The acquisition of gain from both of these wages rests upon the expenditure of labour in the course of project with the difference of the nature of the labour. The labour which the labourer expends in the course of the project is labour which is direct and contiguous as to the time of its expenditure. He accomplishes the thing and expends the labour at one and the same time. However, as for the labour which undergoes wear and tear and is expended in the course of the employment of the tool of production is a labour which is disjoined, from the owner of the tool, and the accomplishment and preparation of which had been already completed in order to be made use of and to suffer wear and tear thereafter in the production operations. We there-by learn that the expended labour which the theory regards as the sole basis for the acquiring of gain is not merely the direct labour but includes stored labour also. Hence so long as there is an expenditure and depreciation of labour-work, it is the right of the owner of the expended labour-work to have the compensation agreed upon with the undertaker of a project irrespective of whether the labour-work which the project causes to suffer wear and tear directly or indirectly.

On the basis of this demarcation of the expended labour which included both of the mode of compensation, we can add, to tools of production, a house to which Islam allows its owner to give on rent and acquire, by way of consideration, a gain from others making use of it. Since a house, too, is another thing, storing a previously executed work, undergoing consumption and wear and tear though in the long run, by its use of others, and hence the owner of the house has a right to obtain compensation *vis-à-vis* the work stored in the house which the lessee causes to suffer wear and tear in the course of his utilization of it.

Likewise, the agricultural land which the land owner gives to a farmer in consideration of rent. The owner of the land receives his right to the land on account of his work of reclaimed the land subjugating its soil and rendering it fit for cultivation. His right to it when the land is exhausted and any trace or affect of his labour therein becomes extinct, as has been stated in the foregoing jurist's texts. Hence the owner of the land is entitled, so long as his labour remains embodied and his endeavours stored in the land, to demand rent from the farmer *vis-à-vis* his utilization of it and enjoying the fruits of it, since the farmer's exploitation of the land causes the depreciation (loss) of a part of the labour which he (the owner of the land) has expended during the course of reclamation and refitting of it for cultivation.

The rent or wage, within the permitted limits of the theory, always stands upon the basis of the consumption of one person's labour by another in the course of the execution of a project and it is paid to the owner of the consumed labour *vis-à-vis* this, there being no distinction between wages for labour or rent for (the use of) tools of production or landed property or agricultural land as regards this basis, even though the nature of the bond which binds the owner of the wage with labour may differ, for whereas the waged labour is a direct labour which the employee puts in by bringing it and consuming of it on account of owner of the project in the course of the production the labour stored in the tools of production, for example, its withdrawal from the labourer and the storing of it in the tool was completed at a prior time and on account of it its consumption conducted in the course of the execution of a project of a person other than the labourer. Hence the wage, an employee receives is a wage for the presently put in labour which the labourer himself confirms and consumes; and the rent which the owner of the tool receives is in fact a rent against a previous labour, which the owner of the tool has stored in the tool and which the owner of the project has consumed in the executive operation of his work.

This is the affirmative sense of the norm which explains the gain which results in the ownership of the sources of production, we have learnt that this sense is reflected in all of the fields in which the taking of wage or rent and the acquiring of gain resulting from the ownership of the sources of production.

4. The Negative Side of the Sense of the Norm:

As for the negative sense which abolishes every gain which labour expended in the course of an operation does not justify, it is conspicuously clear from the texts and prescriptions for it is given in the preceding juristic text in the extract 10 (h) that if a person buys a pasture for fifty dirham then it is not lawful for him to sell (give on hire to another person) for a more than fifty unless he does some work on the pasture: that is, digs a well, or cut a canal or performs some labour to improve it with the consent of the owners of the pasture. In such a case there is no objection to selling it (out) for a sum higher than the price he had bought it, because he has done some constructive work in it, and his action makes it proper for him to take the higher price.

This text explicitly establishes its negative sense because it prevents the herdsman to acquire gain resulting from the sale of the pasture or the hiring out of it for a price or rent higher than the price or rent which he paid to the first owners of the pasture without expending labour on the pasture. It does not allow him to earn this gain unless to justify his acquiring of it he labours to dig a well or cut a canal, or do a like work therein.

The text affirms in the book *an-Nihāyah* that if he does some constructive work in the pasture then his doing so gives him a justification of his acquiring the gain. The difference which he acquires it is for the labour which he advances. "Indeed he did some work therein so it is proper for him."

By this accounting for and linking of acquiring of gain with labour, the text intends to affirm the negative sense of the norm. By labour it becomes proper for the herdsman to acquire the new gain, while without labour it is, not proper. It is obvious that this accounting gives the text the meaning of the norm and it does not remain a mere rule in the case of the herdsman and the pasture but its sense extends so as to make it a basis for acquisition of gain in general.[1]

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[1] It is like the saying: Do not follow the *'fatwā'* (verdict) of Zayd unless he is *a mujtahid.* If he is *a mujtahid* then it is valid for you to follow his opinion because he is *a mujtahid so* on account of his being *mujtahid* following him (his opinion) is

So acquisition of gain, according to this text is not valid without direct labour or disjoined, stored labour as in the tools of production or landed estate etc.

This fact itself follows from the text B. of Extract I (10) which prohibits a person who takes on rent a land at one thousand dirham, to lease it out at a rent with two thousand dirham, without his expending any labour thereupon and follow the prohibition with the norm which explains it and the general reason on the basis of which the prohibition is established, as the saying because it is guaranteed.[1]

According to this accounting for (assigning of reason) and explanation which raises it from its capacity of being an order in respect of a happening to the level of the general norm, it is not permissible for any individual to make secure for him-self a gain without putting in labour, for acquiring it, labour being the main justification in the theory. (Vide Appendix X V I)

Just as the texts which state the negative sense of the norm, they connect it with a number of the prescriptions of the fore-going upper-structure.

Among those prescriptions are those which prohibit a lease of a land or a house or a hirer of tools of production from leasing or hiring with a

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valid for you. That the implied sense of this saying by the common law (*'urf*) is that the validity of the following a religious opinion is always bound with *ijtihād, so* just as it is not valid to follow the opinion of Zayd unless he happens to be *a mujtahid so* it is not valid to follow any other person's opinion in such a case or in other words, common law gushes the particularity of an instance of an accounted for order by the accounting for context and makes the linking of earning with labour or following of the opinion with the *ijtihād* a general law.

[1] The text given on the authority of al-Ḥalabī as follows: He says: "I asked the Imām aṣ-Ṣādiq (peace be upon him) 'Can I enter into a tenancy contract for an agricultural land and hold myself responsible for one third or one-fourth of the yield, then I enter into a tenancy contract with someone else, holding him for one half yield?' The Imām replied 'There is no objection' ". He says he then asked ''Can I lease it for one thousand dirhams and then lease it out for two thousand dirhams?" The Imam replied ''No". ' ' I asked him 'Why?' He replied 'In the first case it is guaranteed while in the second it is not'. This is quoted in the foregoing upper-structure.

rent or compensation greater in amount than the amount which it cost him to hire them, if he does not do any work upon them, for, that will make his pocketing the difference without expending on them labour directly or in-directly. For example, a person takes on lease a house at the rent of ten dīnār and lease it (to someone else) at the rent of twenty dīnār, he extracts thereby net gain of ten dīnār without any expended labour, nullification of it is but natural on the basis of the norm we have discovered.

Among the prescriptions which are connected with the norm is also the prohibiting of an employee to employ another employee to do the work he is employed for a compensation less than he is to obtain as stated already in the quoted extract (10). For example, it is not valid for one who is employed to stitch a dress for ten dirham to employ another person to do the work for eight dirham for this leads to the difference of the compensation and to his keeping for himself the two dirham without doing the work. The law of Islam makes that illegal in accordance with the norm in its negative sense, which rejects kinds of earning which are not based on the doing of work. The tailor, whom the owner of the piece of cloth gives the cloth to make into a dress is allowed to employ another person to do the work for eight dirham and keep the two dirham for himself under one and only one circumstance and it is this that he does a part of the work as to the making of the dress and completes a phase of the tailoring work for the accomplishment of which he is hired in order to win the two dirham as a result of the tailoring work expended on the making of the dress.

The third prescription we find in the upper-structure connected with the negative sense of the norm is that which we came across in the quoted extract no. 6, prohibiting the owner of the capital or stock-in-trade (*māl*) in *a muḍārabah* partnership contract holding the agent responsible for the security of his *māl* (capital or stock-in-trade) with the meaning that if a merchant gives his agent, commercial capital, such as cash or commodity to traffic with it on the basis of share in the profits, then he is not legally entitled to charge him with compensation for loss in case it occurs.

The clarification of the meaning of this is that the owner of the capital has before him two modes of dealing with the agent:-

One of the two modes is that he gives to an agent the ownership or

merchandise for sale in return for a specified amount of money which the agent will pay to him after the final disposal of the goods. In such a case the agent becomes a guarantor for the specified amount of compensation agreed upon and holds himself responsible for its payment, along with the fulfilment of all the legal conditions. Irrespective as to whether the commercial transaction results in profit or sustains loss. Under such a circumstance, the owner of the merchandise will neither share the profit with the agent nor will he be entitled to anything except the agreed specified sum of compensation since the merchandise becomes the property of the agent and the whole of the profit reverts to him for he it is who owns the material. It is on account of this that it has come in the tradition as has been in antecedent given in the quoted extract, F (12). He who holds an agent that is the merchant who traffics will be entitled only to his capital (the merchandise or the capital, he gives).

The other mode is that he keeps the ownership of his merchandise and makes use of an agent to traffic with it on the basis of his share in the profit. In this case the owner of the merchandise will be entitled to profit, for the goods is his goods. But it will not be valid for him to impose upon the agent in the contract for paying compensation for making good the loss – and it is this prescription or rule of the law the linking of which, we indicated, with the norm we have presently discovered through the upper-structure – and that is because the loss in business does not mean the agent's consuming or wasting use in the course of the commercial operation in respect of the disjoined labour of the owner of the goods stored in the good as is the case in relation of the owner of a house or of tools of production which makes it valid for him to permit you of the utilization of his tools or occupation of his house and your capacity of the guarantor for whatever you consume or waste in the course of your occupation of his house or the use of his tools of production, since when you utilize the house of some-one else or his tools of production for a period of time you will cause them to suffer some wear and tear and in consequence of it, an instalment of his labour stored in it. So the owner of the house or the tools of production is entitled to demand compensation from you for what you have consumed or wasted by the occupation of the house or the use of the tools. This compensation which the owner of the house or the tools of production, obtains, is based upon expended labour. But when you receive from the owner of the capital or

property a sum of one hundred dīnār to traffic with it on the basis of your partnership in the profit, you buy one hundred pens with the money and for reason of a fall of price in the open market or deprivation of the value of pen or any whatsoever reason, if you are compelled to sell the pen for ninety dīnār you will not be held responsible for this loss and will not be obliged to pay compensation against the wares in proportion to the extent they have suffered wastage since the wastage of the merchandise was not the result of your wastage of any thing of it or the labour stored therein, but was the result of the fall of the exchange value of the pen or a decline of their market rates. So here the question is not a question of a person's stored labour which you have consumed and expended in the course of your utilization of it so as to make it necessary for you to compensate him on account of it. On the contrary the labour stored in the merchandise does not cease to remain intact as it was, unfettered, unconsumed; only its price has suffered a decrease or its rate is lowered. So it is not for the owner of the merchandise to get compensation from you on that score, since if he obtains from you anything like that then such an earning of his would constitute an earning gains without putting expended labour and leads to his obtaining a gain from you without your having consumed anything of his labour through utilization. This is what is rejected by the negative sense of the norm.

5. The Binding of the Interdiction of Usury with the Negative Side of the Sense of the Norm:

Just as the interdiction of imposing guarantee is bound with the negative side of the sense which we have been studying, so likewise, we can also regard the interdiction of the usury for one of the structures of the upper-structure which reclines upon on this negative sense of the norm. The interdiction of usury is rather one of the most weighty part of that structure. We have come across the order interdicting usury in the quoted extract 9 of the foregoing upper-structure, which explains Islam's prohibition (*taḥrīm*) of all kinds of borrowing at gain. Interest is considered in the established capitalist usage, which permits it as a wage (return) of cash capital which the capitalists advance to commercial projects, etc. against a recompense at a percentage ratio per annum for the advanced money. To this recompense the name of interest is applied.

It does not differ much from the recompense which the owners of the landed properties or tools of production accruing from the hiring of those landed properties or tools of production. Just as you can lease a house to dwell in for a period of time, and then hand it over to its owner along with the specified rent so likewise it is permitted to by the common law (*'urf*) which believes in interest to borrow an amount of money for consumptive or commercial purpose and then hand over the amount itself or a like amount along with the specified wage (recompense) to the person from whom you borrow the money.

Islam by its prohibition of borrowing money at interest and by its permission of gain or profit accruing from hiring out of landed properties and tools of production reveals the theoretical difference between cash capital and the landed properties and the tools of production. This difference should be explained in the light of the theory and on the basis of the norm the discovery of which we are now pursuing in order to know the reason or ground which calls upon the economic doctrine to put an end to the wage (return) of the capital or in other words, abolishment of the guaranteed gain accruing from the ownership of cash money while it allows the wage of the tools of production and approves a guaranteed gain accruing from the ownership of these tools. Why it permits for the owner of the tool to reap from them and by way of hiring out of them a guaranteed gain without undergoing the trouble or hardship (of labour) while it does not permit the capitalist to reap from his cash and by way of the lending of it, a guaranteed gain without undergoing the trouble (of labour). This is a question, we have indeed to answer without fail and decidedly.

Indeed the reply to this depends upon no more than a recourse to the norm in the form in which have discovered it and its two senses positive and negative. The guaranteed earning or profit – the rent or wage accruing from the ownership of the tools of production is implied by its affirmative or positive sense of the norm. The stored labour in the tools of production constitute a right of the hired to a part payment for the wear and tear they suffer from conducting the operation of production. The wage or hire which is paid to the owner of the tool is, in fact a wage or hire in respect of previous labour and consequently represents a gain or earning on the basis of expended labour. Hence it is permissible according to the positive sense of the norm. As for the guaranteed gain

accruing from cash capital – the interest – there is nothing which justifies it theoretically. The merchant who borrows a sum of one thousand dīnār for a commercial project at a specified rate of interest will hand over to the creditor within a specified time, the sum of one thousand dīnār without an antom of loss occurring to them from wear and tear by their use. In such a circumstances the interest will become an illicit gain since it is not based upon any expended labour so as to be implied or come under the class of the negative – sense of the norm.

Thus we learn that the difference between interest on the cash capital and the wage or hire on the hiring of the tools of production in the Islamic Law arises from the difference of the nature of the utilization of the advanced cash-capital and nature of the utilization of the hired tools of production. The borrower of the cash capital's utilization does not lead to any depreciation of the capital on account of its nature or the wastage of any part of the labour stored therein for the borrower is responsible by the law of loan-contract for the handing over, within the limit of the specified period of time, the amount and the cash which he hands over in the discharge of the debt is the cash without any difference as to its potency.

As for the lessee's utilization of the tools of production which he hires, in the course of the productive operation, for example, the utilization will lead to their suffering depreciation to a certain degree and the wastage of a part of the labour embodied in them. On account of this it is but meet that the owner of the tools of production obtain some gain by way of hiring out of the tools on the ground of the expended labour. But it is not meet for the capitalist to obtain any gain by way of this because he recovers his property as it was, intact and without suffering any wear and tear by use.

We can add to the collection of the prescriptions which we have presented for the revealing of the bond between the upper-structure and the theory, another prescription, already advanced in the quoted extract (6). It is a prescription which decrees the disallowing of an agent in *a muḍārabah* contract to enter into an agreement with another agent to carry out the work in consideration for a less percentage ratio of profit than the consideration the first agent obtains. Obviously, prohibiting this practice is wholly in agreement with the negative sense of the norm, the revelation of which we have been pursuing. It is the denying of a gain

which is not based on expended labour for when the first agent when he will perform the above-mentioned work, he will keep for himself the difference between the two percentage ratios. This gain will be a gain acquired without expended labour. So it is but natural that such a gain may be put an end to in conformity with the general norm.

6. Why Means of Production do not Share in the Profit ?

Now there remains, from the foregoing upper-structure, one last question about the prescriptions as to the sharing of profit. Let us prepare our self for the question by an optimization of the data we have found uptil now. We have learnt from the Islamic theory of post-production distribution that acquisition of gain is valid only on the basis of consumed labour. Consumed labour is of two kinds; labour put in and consumed at the same time like the labour of the hired man; and the labour, disjoined and stored, put in previously and consumed during its utilization, by the hirer of it, like the labour stored in the house or the tools of production which is consumed and suffers wear and tear in the course of the dwelling therein or its utilizations. We also have learnt that the ownership of cash capital does not constitute a source of gain. It is because, lending, as interest is not based on labour consumed, is forbidden. It has enabled us to bring together all kinds of fixed wages, some of them are permitted like the hiring of a house and some of them are forbidden like the gain of interest and to apply successfully the norm into positive and negative senses. But we have, uptil now, said nothing in explanation of kinds of gain other than the fixed compensation mentioned in the foregoing upper-structure and by this we mean the sharing in the profit, and the linking of the fate of it. It is the outcome of the operations as to gain and loss. The working partner in the working partnership (*‘aqdu ’l-muḍārabah*) cannot demand under all circumstances, a fixed return from the person who invests the money. We can demand only a share in the profit and his gain contracts or expends in accordance with the outcome of the operation. So, always the working partner in the farming contract and watering of the garden contract. In such contracts too, gain is permitted on the basis of profits or produce as stated in the foregoing extracts (3, 6, 8). On account of this we stated at the very commencement of our discussion that two kinds of gain for the

labour are permitted, one, wage or return and the other share in the profit.

Likewise also the owner of the stock in trade in the working partnership contract and the owner of the land in the farming contract and owner of the trees and garden in the garden watering contract are allowed gain on the basis of profit. Every one of them has a share in the profit according to terms agreed to in these contracts stated in the foregoing extracts pointed by us previously.

In comparison to this, the tools of production are forbidden to have a share in the profit and the *sharī'ah* does not permit for them gain on that basis, rather it permits an opportunity to acquire for them gain on the basis of fixed return. The man who owns tools of production cannot give them to one who works with them on the basis of a share in the profit or the produce as is already stated in the extract (10) of the foregoing upper-structure in which it occurs that it is not valid for him who owns a net or trap for catching game or any other tool to give it to the game catcher on the basis of having a share of the game bagged, for if the game catcher bags the game with the help of it, whatever of the game he bags will be his in toto and Mt owner of the net or the trap will get no share thereof.

These things are quite obvious from the upper-structure, and it is upto us to posit the following question for the sake of discussion.

Why is it that the labour is allowed to acquire gain on the basis of sharing in the profit, while gain on the basis of sharing in the profit is not allowed to tools of production? And how it is that while the tools of production are forbidden acquisition of this kind of gain, it is possible for the owner of the stock in trade (merchandise) or the owner of the land and the owner of the garden or plantation of trees to acquire it.

In fact, the difference between labour and the tools of production, a difference which allows labour to share the profit but does not allow the tools of production to share it, arises from the theory of pre-production distribution. We have learnt from that theory that labour – the pursuit of works of utilization and fructification – is the general reason and ground for the private rights in respect of the raw natural wealths and there does not exist from the point of the doctrinal economics any another reason or ground for the ownership and the acquiring of private right to them. Likewise also, we have learnt that if an individual acquires a private right by carrying out labour on them his right continues to remain fixed and as long as the nature of labour, on the

basis of which he acquired the right lasts and under this circumstance it is not permissible for another person to acquire a private right in those wealths by expending fresh labour on them as has been expounded in detail by the theory of the pre-production distribution. But this does not mean that the new labour differs in nature from the first labour rather it is that each one of them will constitute singly by itself a ground for giving ownership of the material who has done in respect he has laboured for. The new labour is denuded of its effect only in consideration of the first labour having preceded it in time and on account of the operation of its effect giving owner-ship of the material to the first agent. So it is the first agent on the ground of his having been before the second worker in time which insulates the effect of the labour of the second agent. On account of this it becomes natural that when the first agent forgoes his right, the second labour may come back to take its effect. And this is what altogether takes place in respect of the contracts of *Muzāra'ah, musāqāt, muḍārabah* and *ju'ālah,* for example in the *'aqdu 'l-Muzāra'ah* (farming contract) the labour exerts and carries out labour for the fructification of the seed and the transformation of it to crop. However, this labour which he carries out does not give him the right to the ownership of the crop for the material about which he carries out the – labour the seed is the property of a previous person, the owner of the land. If the owner of the land allows the agent – the cultivator – by the farming contract to reap the fruit of his labour and forgo his right to the half of the material, for example, then there remains nothing to stand in the way of the agent (the cultivator) to the helping of himself to the ownership of the half of the crop.

On the basis of this we learn that the share of the agent in the produce, in fact, expresses the opportunity of labour which he carries out in respect of a material – for example, the seed, the trees, merchandise and the right which results from its performance, in accordance with the general theory of pre-production distribution. This opportunity or right, however is at times, suspended because of a turn or/a right prior in time which another person enjoys. If this person forgoes his right by a contract, like the contract of farming, or other contracts between the worker and the owner of the property, there remains nothing which prevents from giving the agent his right in respect of the material and within limits of the foregoing of its previous owner as a result of the

performance of labour in respect of it.

As for the tools of production they basically differ from the labour which the agent performs in accordance of these contracts. The farmer who binds himself with the owner of the land and seed by a deed of farming contract carries out labour and does painstaking work, it is his right that he may own it within the limits of the terms allowed in the contract. But as for the owner of the net or trap for catching game, who gives it to a catcher of the game to catch game with it, he does not carry out the labour of bagging the game nor makes effort for acquiring possession of it. But it is only the catcher of the game alone who carries out the labour and takes the exertion to catch the game. So there does not exist any justification for the owner of the tool of hunting to acquire a right to the ownership of the game. Since performance of labour in the catching of the game is the justification for that and as the owner of the hunting tool has not performed the labour of trapping the game to acquire this right and the game catcher's giving him permission to this right does not suffice for granting of it to him so long as it is not applicable in the general theory of distribution. So here it is not the right of the game-catcher which comes in the way to the trap-owner's ownership of the bagged game but what comes in the way of it is of the theoretical justification.

In this way we learn from this point the difference between direct labour and stored labour. Direct labour is a labour which is performed by the agent on the material. This constitutes a justification of his right of the ownership to something of it, when the previous owner of it (the material) forgoes his previous right. As for the stored labour, in the tools of production, he puts in no direct labour in the operation, for example, the owner of the trap or net. He does not perform direct labour in catching the game, so he has no right to the ownership of the material, irrespective as to whether or not the performer of the labour – for example, the catcher of the game, forgoes his ownership to it. He only is entitled to hire, that is, compensation or return in consideration of the consumption or depreciation which his stored labour suffers during its use in the operation.

In the light of it, we are able also to perceive the difference between the owner of the tools of production who is permitted to have a share in the profit and the owner of the land in the farming contract and the

owner of the commercial goods in the *muḍārabah* contract and similar things in case of which sharing in profit is permitted. Those owners who are permitted to have a share in the profit or produce, in fact, own the material on which the agent performs labour. For example, the landlord owns the seed (according to a foregoing text by ash-Shaykh aṭ-Ṭūsī) which the farmer sows, and the owner of the commercial goods (merchandise) owns the commodities with which the agent traffics, now we know from the theory of pre-production distribution that the ownership of a material does not lapse by the transformation of that material on the part of another man and his conferring upon it a new utility, so it is but natural that it becomes the right of the owner of the seed or the merchandise to the produce or profit accruing therefrom so long as he owns the material in respect of which the agent carries out the work.

The circumstances wherein the owner is allowed the appropriation of the profit or produce such as *Muzāra'ah, musāqāt, muḍārabah,* etc. support and consolidate the correctness of the explanation we have offered for this ownership, because all of these circumstances share in one thing and it is this that the material on which the agent carries out work is already a property of its owner.

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OBSERVATIONS

1. THE ROLE OF RISK IN THE ISLAMIC ECONOMICS

The findings we have come across from the theory of the post-production distribution plainly state. that the theory does not admit risk as one of the factors for acquiring gain and that there is no kind of gain which receives its justification from the risk.

In fact, risk is neither commodity which the venturer offers to someone else so that he may ask the price of it nor is it a labour which the venturer expends upon a material so that it may be his right to its appropriation or demanding of a wage or compensation on that from its owner. It is only a specific mental state which prevails upon a man who is trying to venture upon a thing the issue of which he is afraid, so that, he in consonance with his fear, may either withdraw from the venture some undertaking or he may master his impulse to fear and join it to his determination upon it. Hence it will be solely he who will lay down for himself the course and choose fully by his will to bear the burden of the difficulties of fear to venture upon the planned undertaking about which there is a probability of loss. So it is not upto him that he demand a material compensation in respect of this fear as long as it is a personal inner feeling and neither physically embodied labour nor a produced commodity.

Truly, sometimes mastery over (conquest of) fear is of great importance psychologically and morally. But a moral valuation is one thing and economic valuation another thing.

Many have fallen into error influenced by the capitalist thought which has a tendency to explain the point and its defence on the basis of risk. They say or have said that the profit allowed to the owner of the stock-in-trade (cash capital or commodity) in the *muḍārabah* contract is theoretically based on the risk because even though the owner of the stock-in-trade does not do any work, yet he bears the burden of the risk and exposes himself to loss by handing over his cash or commodity to the agent trafficking with it, so it is a duty of the agent to make proportionate percentage of compensation against the ventured risk, out of the profit agreed upon in the *muḍārabah* contract between them.

But the fact has been made fully clear in the previous discussion that the profit which the owner of the cash or commodity obtains as a result of the agents trafficking of it is not based on the risk but receives its justification on the basis of the proprietorship of the owner of the cash or the commodity with which the agent traffics. The commodity, even if it is most likely that its value may increase by a commercial labour which the agent expends on it, such as his labour of transferring to the market and making it readily available to the consumers of it, yet continues to remain the property of the owner of the cash because no commodity secedes or is removed from the owner-ship of its owner by another persons changing it. This is to which we apply the name of the evidence of the constancy of owner-ship.

So the right of the owner of the cash or commodity to the profit is the result of the ownership of the material which the agent handles profitably by way of its sale. It is similar to the right of the owner of a plank of wood out of which the bed stead is manufactured.

On account of this profit is considered the right of the owner of the cash or commodity even if he does not carry out any kind of psychological venturesomeness. For example, a man traffics with the property of another man without his knowledge and makes profit from his trade. In such a case the owner of the property (cash or commodity) can acquiesce in that and appropriate to himself the profit so also it is his right to object to it and seek to obtain his property or what is equivalent to it from the agent.

The hold of the owner on the profits, in this example, is not based on

the element of risk, for in any case, his property is guaranteed; and the agent – the trafficker – took the risk of the guaranteed property and compensate in the case of loss.

This means that the right of the owner of a property (cash) is not theoretically the result of risk he runs nor a compensation against it or a reimbursement to the owner of the property for his resistance of his fear of the dangers as we read is the wont of the writers of traditional capitalism. These writers attribute to risk-taking the mark of heroism and make it a justificatory ground for the obtaining of the gain on the plane of this heroism.

There are a number of things in the *sharī'ah* which go to prove its negative stand-point as to the risk and in admission of its positive role as the justification of the acquiring of the gain.

For example, there are many who are wont to explain and justify usurious interest on the element of risk of which borrowing consists. We will take it up in our following observation. A person's giving his money on credit is a sort of risk in which he may lose his money, if the borrower is unable in future to pay him back the money lent or meets with a disaster so that the creditor succeeds in getting nothing. As such it is his right that he obtain a recompense for against his adventure with money for the sake of the debtor and this recompense is interest.

Islam does not admit this kind of thinking and does not find in the assumed risk justification for the interest which the owner of the money obtains from the debtor. There it has forbidden it decisively.

The forbidding of gambling and the earning based on it is another legal aspects of *sharī'ah* which demonstrates its negative stand-point as regards the element of risk-taking, since the earning resulting from gambling is not based upon productive labours but rests upon the risk alone. The bettor obtains his wage because he has taken the risk with his money and advances to pay over the wage to his adversary in case the client suffers the loss.

We may join to the abolition of the gambling and the abolition of the *shirkatu 'l-abdān* (body pooling partnership) also according to many text of jurists like al-Muḥaqqiq al-Ḥillī in *ash-Sharā'i',* and Ibn Ḥazm in *al-Muhallā* these things are forbidden.

By this partnership they mean, a partnership between two or more persons each of the two or everyone of them pursuing his particular work

and craft and sharing jointly the earning accruing therefrom. Like two physicians agreed between them that each one of them will perform the work of visiting sick persons and share each one of them half of the fees they may have jointly earned during the month.

The abolition of this sort of partnership agrees with the negative standpoint of the *sharī'ah* from the element of "risk", for the earning is based on risk and not on work. The two physicians in the above example, engage themselves in this kind of partnership, only because they do not know before hand the amount of fee they will acquire from their work. Each one of them thinks that the fees earned by his partner may be more than what he earns and vice versa. So he engages in such a partnership, making up his mind to forego a part of the amount of the fee he earns in case it is more than his partner and may acquire from that earning of his partner, in case the fee he (partner) earns is more than what he earns. As a result of that the physician of lesser earning will have a right to join in acquiring part of the earning of the other physicians and the fruits of his labour for he had taken the risk in respect of his earning from the very beginning, if the result was different. This means that the joining in the earning by the physician of lesser income thus arises from an element of risk and is not based on expended labour. So the abolition of it by the *sharī'ah* and its order of its nullification confirms its negative sense in respect of risk.

2. CAPITALIST JUSTIFICATION OF INTEREST AND ITS CRITICISM

We have learnt a short while ago that the element to risk in the loan about which Islam adopts a negative position is one of the justification with which capitalism supports its explanation of interest and the right of the capitalist to impose it on the debtor.

We have also learnt that justification of charging interest on the ground of the element of risk is wrong on the basis of Islamic view, because Islam does not consider element of risk a lawful ground of earning but Islam connects gain only with direct or stored labour.

Capitalism in its justification of interest on the basis of this element of risk, in loaning the money forgets the role of mortgages which is the creditor's obtaining of guarantee and the elimination of the element of

the risk, plays in the loaning operation; What then is its (capitalist) view about loans propped up with mortgage and sufficient guarantees?

The capitalist thinkers have not only confined themselves on trying interest with element of risk and explaining it in this light but also have advanced a number of explanations for its justification on the basis of the doctrinal side.

Some of the capitalist thinkers have said that the interest which a debtor pays to the capitalist is a compensation which he pays to the money lender for his deprivation of the profitable use of the money advanced and remuneration for awaiting the whole duration of the agreed period ; or it is a charge which the capitalist demands in consideration of the borrower's utilization of his money lent to him, like the rent which a landlord gets from a tenant *vis-à-vis* his residential utilization.

We perceive in the light of Islamic theory of distribution, as delimitated by us the contradiction between this attempt and the Islamic mode of thinking in respect of distribution. Islam, as we have learnt, does not acknowledge earning or gain under the name of honorarium or compensation on the basis of the expenditure of direct or stored labour. And the capitalist does not spend neither direct nor stored labour which the borrower sucks up, so that he must pay the compensation; as long as the loan shall return back to the capitalist without depriving or wasting.

Hence there is no Islamic justification for the acknowledgement of interest, since earning without labour is contrary to Islamic ideas of justice.

There are some who justify the interest as an interpretation of the capital's right to some of the profits which the borrower reaps by way of the money he advanced to him.

But this interpretation has no place in the loans which the borrower spends to meet his personal needs and on account of that fact he does not make any profit from it. It only justifies the validity of capitalists acquiring something from the profit at the time of his advancing money to one who trades with it and earns fruitful profit therefrom. In such a case Islam admits the right of the capitalist to the profit in that respect. But this right means the partnership of the money-owner with the worker in the profit and allocation of the capitalist's rights with the results of the operation. This in Islam is the meaning of *muḍārabah* wherein the capitalist alone bears loss, and shares the profit with the worker on the

basis of percentage agreed upon the partnership contract.

This substantially differs from profit in the capitalist sense which guarantees a fixed return apart from the outcome of the trading operation.

Capitalism brings forth stronger justification for interest at the hand of some of its supporters as it is explained as an interpretation of the differential between the actual value of the commodity and the future value of it. It is based on the belief that the time plays a positive role in the formulation of value. The exchange value of dīnār of today is greater than the exchange value of the dīnār of tomorrow. So if you lend a dīnār to someone for one year, it is your right that at the end of the year to obtain more than a dīnār, so that you may recover thereby a sum which is equal to the exchange value of the dīnār you had lent to him. Whenever the period of payment is longer, the money lender will become entitled to increase interest in accordance with the difference between the present value of the dīnār and its future value, due to the extension of the time distance between it and its prolongation.

The notion behind this capitalist justification rests on a wrong basis. It is the allocation of the distribution of post-production with the theory of value. The theory of distribution of post-production is apart from the theory of value itself. That is why we see that many a factor which has a post in the formulation of exchange value of the produced commodity has no share of that commodity in the Islamic distribution. But it has for its part fares which can obtain from the owner of commodity equal to its service to him in the operation of production.

The distribution among individuals does not rest in Islam upon the basis of exchange value so that to give every element of production a share in product equal to its role in the formation of the exchange value. In Islam the distribution of the produced wealth is connected with Islam's doctrinal concepts and its ideas about justice.

So from Islamic point of view it is not necessary to pay interest to the capitalist on the loan, even if it is true that actual commodity's value is greater than its future value, because this is doctrinally not sufficient for the justification of usurious interest which expresses the differential between the two values unless interest is reconcilable with the ideas which the doctrine adopts in respect of justice.

We have previously learnt that Islam does not admit from the doctrinal side an earning which is not justified by direct or stored labour

spent in. The interest is of this kind, because it is, according to the last capitalist explanation the result of a time factor only and not a result of the work. So it is rightful for the doctrine to forbid the capitalist to utilize time for obtaining a usurious earning even though the doctrine acknowledge the time factor's positive role in the formulation of value.

Thus we know the error of the linkage of the justice of distribution with the theory of value; and this error indicates of the absence of distinction between the doctrinal enquiry and scientific investigation.

3.LIMITATION OF THE AUTHORITY OF THE OWNER OVER THE USE OF HIS PROPERTY

There are a number of limitations on the owner of a property to the free disposal of it. The sources from which these limitation arise are different, some of them have their sources in the theory of pre-production distribution, for instance the time limitation of the authority of the. owner over his property up to the span of his life and the interdiction on his authority to decide the fate of the wealth he owns after the cessation of his life as above mentioned discussions.

Some of the limitations are the outcome of the theory of post production distribution. For instance, the limitation of the authority of the capitalist over the capital which he owns, interdict him from earning, on the basis of usury and impermissibility of his lending it at interest. This limitation has arisen as a result of the theory of post-production distribution which consists of the connection of earning by labour spent – direct or stored as we have learnt a little while ago.

Then there are limitations in the Islamic economic system connected with religious and moral conceptions about private property as a result of the individual's membership of the society for the benefit and service of which Allāh has provided the natural wealth. Being so it is not valid to demolish, private property on that basis not to become a factor for injuring the society and the worsening of its condition because by its doing that it ceases to be a manifestation of the benefit of society for the benefit of which the natural wealth are provided. So it is natural, on this basis, to limit an owner's authority over the free use of his property in a way which may cause injury to others and be detrimental to the interest of the society.

Contrary to this is the right of ownership on capitalist basis. Capitalism does not look upon the individual's right to his private property of the natural wealth as a phenomenon of benefit to society but the right of the individual is interpreted as capitalistically as the greatest share of freedom in every field. It is natural therefore that it may not limit it except by other person's freedom, so, in capitalist system an individual has the right to utilize his property in any way he likes so long as he does not deprive others of their formal freedom.[1]

For example if you possess a great project, then it is within your right on the basis of capitalist conception about private property to follow any of the methods which may enable you to wipe out small projects and to drive them out of the bounds of market in a form which may lead to its destruction and injury to its owners, for, this does not interfere with their formal freedom of which capitalism is jealously keen to abound to all.[2]

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[1] For the clarification of the meaning of formal freedom and real freedom, see vol.1, pt.2, p.54 (Engl. transl.).

[2] The owner's disposal of his property which leads to harming of others are in two ways:-

One way of it is the owner's usufruct of his property which causes direct loss of property or injury to another person by diminution of his properties, such as if you dig a pit on a land belonging to you which may lead to the falling down of the neighbouring house belonging to someone else.

Another way of causing injury to other is indirect form of it which leads to the worsening of the condition of the others, without actually decreasing anything from their properties, like the methods which great capitalist projects follow in destroying small projects. These methods do not actually deprive the owner of the small project of any of his commodities he possesses. It only compels him to dispose it at a cheaper price and to the withdrawal from the field and disables him from continuing his business.

As for the first kind of the use of one's property is included in the general Islamic law *lā ḍarar walā ḍirār* (neither harm nor be the cause of harm). The owner of property is forbidden conformably to this law to practice this sort of the use of his property.

As for the inclusion of the second kind of the use of one's property in that general principle, it is connected with the determination of the sense of the term *'ḍarar'* (harm). If *ḍarar* means direct diminution of the property or life, as many jurists think, then this sort of harm does not come under this principle; for it is not causing harm in this sense. But if causing harm means causing the

It has come in a collection of traditions and reports (*aḥādīth* and *riwāyāt*) on the legislative principle which Islamically limits the disposal of the owner of a property to use his property in such a way as to cause harm to others, as mentioned herebelow:-

1. It is stated in a number of reports that Samurah ibn Jun-dab owned a cluster (of dates). His way to it lay across the interior of a premise of an *anṣārī* man. Samurah used to come and enter to his raceme without asking permission from the *anṣārī* man. The *anṣārī* man told him: "Samurah, you always come upon us suddenly while we are in a state we would not like your coming upon us unannounced. So when you come, ask permission." Samurah replied: " I will not ask permission to a way which is my way to my cluster." The *anṣārī* man then complained to the Messenger of Allāh (*s.a.w.a.*) against him. Thereupon, the Messenger of Allāh (*s.a.w.a.*) sent for him and when Samurah came, told him: "So-and-so complains against you. His allegation is that you enter his premise without asking his permission, and you come upon him and his family unannounced. So henceforth whenever you wish to enter, ask his permission." In reply, Samurah said: " O Messenger of Allāh! Do I have to ask permission for my way to my cluster?" The Messenger of Allāh then said to him: "Well, then leave it, we will give you, instead of it, a raceme at such and such a place". He said: "No." The Messenger of Allāh (*s.a.w.a.*) then told him: "You are a harmful person. (It is not permitted) to harm a believer nor to cause inconvenience to him or injury (*lā ḍarar walā ḍirār*)." The Messenger of Allāh, then, ordered to uproot the raceme and fling it at him.

2. On the authority of al-Imām aṣ-Ṣādiq (a.s.) that the Messenger of Allāh (*s.a.w.a.*) passed for the Medinites a decree concerning troughs for date-palms, that the use of extra water should not be prohibited. He

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worsening of the person's condition as is given in the lexicons, then this is a wider and more comprehensive meaning of the term than direct financial harm, then in that case it is possible to include this second kind of harm on the basis of this sense and the declaration of the limitation of the authority of the owner of the property to his property and forbidding him to practise either of the foregoing both injurious uses of his property because both of them lead to the worsening of the condition of other people and the turning back of worsening condition to detraction also as explained by us in our discussion on principles, and lead us to the generalizing of the law of it.

(the Messenger) passed a decree to the nomads that the surplus water should not be prohibited, so that the surplus pasture not be prohibited. And he (the Messenger) said: (It is not permitted) to harm others nor to cause inconvenience to them (*lā ḍarar walā ḍirār*).

3. Also on the authority of al-Imām aṣ-Ṣādiq (a.s.), that he was asked about ordering a person to rebuild a wall which had fallen down, which used to act as a curtain between him and his neighbour's premise. He (the Imām) replied: "The owner of the fallen wall cannot be compelled to rebuild it unless it becomes incumbent upon him to do so, on account of the right of the owner of the other premise or on a conditional term agreed upon in the original contract of the property. But it may be told to the owner of the house, 'You can buy for yourself your right if you wish' ". He (the Imām) again was asked: "If the wall had not fallen by itself, but the owner razed it down or he razed it down – without any need (reason) – in order to harm his neighbour?" He (the Imām) replied: "(In that case) he should not be let free since the Messenger of Allāh said: 'Neither damage nor harm (*lā ḍarar walā ḍirār*)'. So if he razed it down, he must be compelled to rebuild it".

4. In *Musnad* of Aḥmad ibn Ḥanbal there is a tradition narrated by 'Ubādah that the Messenger of Allāh (*s.a.w.a.*) decreed: "Neither harm nor damage", and he decreed: "For the wrong doer that he has no right on the crops he raises on a forcibly seized land:" and he also decreed to the Medinites on date palms that the extra water from well should not be prohibited; and decreed to the nomads that no surplus water should be prevented in order to prevent extra pasture.

* * * * *

CHAPTER TWO

THE THEORY OF PRODUCTION

RELATION OF DOCTRINE WITH PRODUCTION

There are two aspects of the activity of production.

One of them is objective. It consists of the means which are employed, the nature which is implemented and the labour which is expended in carrying out of the operation of production.

The other is subjective. It consists of the psychological motive, the goal which is aimed to be achieved by the operation and the evaluation of the operation in accordance with the adopted conceptions of justice.

The objective side of the operation is subject matter which the science of economic studies singly by itself or in conjunction with physical sciences. In order to discover general laws which control the means and the nature as to make it possible for man the power over the use of those laws after their discovery and organizing of the objective side of the operation of production in a better and more successful manner.

For example, the science of economics discovers the law of diminishing return in agriculture. The law states that the increase of the additional units of labour and capital in a definite proportion is met with the increase in the productions in less proportion. This disparity between the proportionate increase in the units of labour and capital and the proportionate increase of the products continues and consequently the increase in the return continues in diminishing till the increase of the return becomes equiponderant with the proportionate increase of the units of labour and capital. When this state of affair is reached it would not be to the interest of the farmer thereupon to spend again any more labour and capital over the land.

This law throws light on the operation and by its discovery a producer can avoid wasting of labour and capital and can specify the factors of production which would guarantee him the great amount of result.

Like this law is the fact which says that the division of labour leads to the betterment of production and its abundance. It indeed is an objective truth, rightfully discovered by the science and placed at the disposal of producers to take advantage of it to the improvement and the increase of production. The duty, therefore, of the science of economics which renders to the production, is to reveal those laws which enable, through their acquaintance, the producer to organize the objective aspect of the operation of production in a form which leads to a good result and to an abundant and better production.

In this field the doctrine of economics, whatever its nature may be, has none whatsoever of positive role to play because the revelation of the general laws and the objective relations among the natural or social phenomena is the function of the science and does not enter freely into the competency of the doctrine. It is on account of this that different societies with their economical doctrines meet together on the scientific ground and agree upon the making use of the contributions of the science of economic and all the other sciences and to seek guidance from them in the fields of productions.

However, the doctrine has a positive role to play on the subjective side of the process of production. In this side is reflected doctrinal contradiction between societies which differ from each other in their economical doctrines, for every society has its own special view point as to the process of production and evaluates that process on the basis of its general conceptions and its doctrinal methods as to the determination of the motives and contributions of the ideals of life.

For what we produce? And to what extent? What are the objectives should be aimed at from the process of production? What kind of the commodity to be produced? And is there a central authority which supervises over the production and its planning? These are the questions which the doctrine answers.

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GROWTH OF PRODUCTION

There could be the only point about which there is a complete agreement among the doctrines of Islamic, capitalist and Marxist systems of economy; all on the doctrinal ground. That point is the growth of production and the utilization of nature to the utmost limit of its advantage, within the general framework of the doctrine.

All of these doctrines of economic system are unanimous about the importance of this objective and the achieving of the realization of it by all the manners and modes which are consonant with the general cast and framework of their respective doctrines. Likewise, as a result of a single system of the economic doctrine's organic coordination, it rejects everything which is not compatible with its doctrinal framework. Since the principle of growth of production and the utilization of nature to the utmost limit of its advantage is a part of a whole, it reacts in every doctrine upon the rest of its parts and assumes the conformity in accordance to its position in the composite and its connections with all the parts. For example, capitalism rejects any method of the growth of production and increase of wealth which clashes with its principle of economic freedom; and Islam rejects all of those manners which do not agree with its theories about distribution and its ideal of justice. However, Marxism believes that the doctrine does not clash with the growth of production but runs on the same line with it, according to its view as to there being an inevitable coordination in relation between production and the form of distribution as it will be discussed later.

Anyway, we will set out on the study of the Islamic theory of production from the principle of the growth of production in which Islam believes. Islam has enjoined upon Islamic society to form its conduct conformably to it and has made the increase of wealth and the exploitation of nature to its utmost possible limits doctrinally a target of the society. It lays down its economic policy in the light of it to be determining on one side by the general doctrinal frame and by the objective conditions and circumstances of the society on the other. The state executes the policy within those limits.

We can see clearly the features of the principle of the growth of production from the application of it during the times of the Islamic State and from the formal Islamic instructions which history has preserved even to this day. From these instructions in the programme which the Commander of the believers, ‘Alī (a.s.) had formulated to his Governor of Egypt, Muḥammad ibn Abī Bakr and had ordered him to follow it and to apply the instructions. It is reported in *al-Amālī* of ash-Shaykh aṭ-Ṭusī that when the Commander of the believers appointed Muḥammad ibn Abī Bakr as the Governor of Egypt, he wrote to him and commanded him to read the letter to the people of Egypt and to act upon whatever contained therein. The Imām wrote in this letter:-

> O servants of Allāh! Verily, the pious acquired possession of the goodly transient things of the world and the goodly things of the future life. They shared with the worldly people, their worldly life, but the worldly people did not share with them their life hereafter, Allāh has permitted them to have such of the worldly things as would be adequate for them and suffice them (as to their worldly needs). Allāh the Mighty and the Glorious said: *Say: “Who has forbidden the beautiful* (gifts) *of Allāh which He has produced for His servants and the pure and clean things* (ṭayyibāt) *He has provided for sustenance?” Say: “They are in the life of this world for those who believe* (and) *purely for them on the Day of Judgment. Thus, do we explain the signs in detail for those who understand”* (Qur’ān, 7:32). They live in the world in the best way the world lives, ate the best things that the world eats. They share with the worldly people their world. They eat with them out of what they eat of the pure and the clean things and drink with them out of what they drink the pure and clean, and clothe themselves with the best of the dress with which

they clothe themselves, and dwell in the best of the houses in which they dwell and ride the best of mounts they ride. While they enjoy the worldly pleasures with worldly people, tomorrow they will be the protègès of Allāh; and desiring of Him His gifts, they will be given what they desire; and their prayer will not be reflected and no-thing will be detracted from their share of pleasure. So Oh servants of Allāh towards such things, he who has sense will be eager for and labour for it with piety of Allāh. There is no power or might save in Allāh.

This admirable letter is not of the god-fearing people's actual existence on the face of the earth or their actual historical existence, but had for its aim the perfection of the explanation of the god-fearing people's world-view (theory) about life and putting up of a pattern which a god-fearing society should make true on this earth. It was because of this that he ordered to adopt to practice what was in the letter and formulate his policy in the light of the commandments and instructions given therein. The letter then is quite clear as to the material prosperity which increases in production and the maximum productive exploitation of nature realizes is a target to achieve which the god-fearing society will strive and which the theory which this society adopts imposes upon it and in the light of it acts upon it in the life.

The target at the same time is covered in the religious frame and confined to limits as the Holy Qur'ān declares:

O You who believe! Make not unlawful the good things which Allāh has made lawful for you, but commit no excess, for Allāh loves not those given to excess (5:87).

So prohibition as to exceeding the limit in the field of exploitation of nature and its proliferation is the Qur'ānic way of explaining this general Islamic cast.

Islam's Means for the Growth of the Production:

Islam at the time it affiliated this principle and made increase of production and material wealth its objective and target enlisted into service all its doctrinal potentialities for the realization of this target and the creation of the means and reinforcement which are in harmony with these potentials.

The means for the realization of the target which it enlisted are of two kinds: -

There are the doctrinal means, the creation and vouchsafing of which is a part of the functional duty of the social doctrine of Islam. Then there are the purely applicatory means which a state which affiliates that social doctrine carries out by prescribing a practical policy accompanying the general doctrinal direction.

Islam increased the means, which come under its orbit as a creed professing the social doctrine and a vehicle of civilization in general.

A. Islam's Means on the Intellectual Side:

On the intellectual side, doctrinal means which Islam adopts are to inspire man with enthusiasm for work and productive activity. It puts high value upon labour and linked it with man's dignity and prestige and his position with God and even in his mind. By that it made terra humanus (human race's earthly abode) good (fit) for productive drive and increase of material wealth; and gave such moral standards and clearly defined criteria in respect of employment and unemployment not known before. In the light of these standards and criteria, work becomes a rewardable act of worship for a man. The man who labours for earning his livelihood becomes more meritorious person before Allāh than the worshipper who does not work for his livelihood and idleness or withdrawal from work becomes a defect of man's humanity and a ground of his littleness.

It is in the tradition that when al-Imām aṣ-Ṣādiq (a.s.) inquired after a man, he was told that while he is reduced to poverty, he keeps himself at home engaged in devotional acts and his brothers provide him with the means of his livelihood. To this the Imam said: "He who works for his livelihood is greater devotee than him."

It is quoted that the Messenger of Allāh (*s.a.w.a.*) one day raised the hand of a hard-working tailor and imprinted a kiss upon it, saying: "Seeking of the lawful is a duty of every believing man and woman. One who eats what he acquire by the pains-taking toil of his hand, will pass over the *ṣirāṭ* like the twinkle of a lightening flash, he who eats what he earns by the painstaking toil of his hand, Allāh will look upon him mercifully, thereafter, He will never punish him. He who eats what he

earns lawfully with the painstaking toil of his hand all the doors of the paradise will be made open for him to enter it through any of them."

In another tradition it is reported that once a man passed by al-Imām Muḥammad ibn 'Alī al-Bāqir (a.s.) while he (the Imām) was engaged assiduously working in his farm. Seeing the Imām full of sweat by the toilsome labour, the man exclaimed: "May Allāh do good to you! Please tell me what, if death comes upon you while you are thus engaged?" He (the Imām) replied – and his reply expresses the meaning of labour in Islam: "If death were to come to me while I am thus engaged, it would come to find me engaged in rendering my obedience to the commandments of Allāh."

The Messenger of Allāh (*s.a.w.a.*), as it has come in his sacred biography, when he used to see a person of impressive appearance he used to think highly of him and to inquire his profession or business. If he were told that the man has no any profession nor any work to pursue, the man would drop in his (the Prophet's) estimation, and used to say: "If a believer has no profession, he lives with his religion" (i.e. makes his religion as a mean of livelihood).

In several other traditions, work (for livelihood) is made a part of *īmān* (faith). It is said therein: "To make use of a property in a proper way is a part of faith". In another tradition of the Holy Prophet it is said that there is nothing whatever a believer sows or plants and which man or beast feed upon but will be written down in his account as *ṣadaqah* (a charitable act).

It is reported from al-Imām Ja'far aṣ-Ṣādiq (a.s.) that once said to Mu'ādh – one of his companions, seeing him retired from his business: "O Mu'ādh! Have you grown weak for business, or you have forsaken it?" Mu'ādh replied: "I have neither grown weak nor forsaken it, but I have a plenty of wealth in my possession, and none has any due to me; and I do not see myself to consume it till my death". The Imām, thereupon, told him advisedly: "Do not give it (trade) up, giving it up is to lose one's wits".

In another assembly meeting with the Imām, returning a reply to one who asked him to pray to Allāh to give him means of livelihood said: "I will not pray for you. Seek it in a way as Allāh, the Exalted, has asked you to seek it".

It is narrated that when the verse: *And for him who fears Allāh, He*

prepares a way out and provides for him (his livelihood) *from the source he could never imagine* (65:2-3), was revealed, some of the companions (of the Holy Prophet) secluded them-selves in their homes and engaged themselves in worship (of Allāh); and they said: "Surely Allāh is sufficient for us." Then the Messenger of Allāh (*s.a.w.a.*) sent them (a message) saying: "Surely whoever acts like that, Allāh will never grant his prayer, it is upon you to seek it (livelihood)".

Just as Islam stands against a life of an idle man and urges him to work, similarly stands against some material wealth to remain idle and freezing of others, withdrawing from the field of the productive and profitable utilization, so also it induces to employ maximum possible forces of nature and its wealth to productive use and to the service of man in the field of profitable productivity. Islam considers the idea of keeping idle some sources of nature and material, and pays no heed to their development and utilization a kind of denial or a want of gratitude as to the gift which Allāh has bestowed upon His bondsmen. Allāh, the Exalted says:

> *Say: "Who has forbidden the beautiful gifts of Allāh which He has produced for His servants, and the things clean and pure* (which He has provided) *for sustenance?" Say: "They are, in the life of this world for those who believe,* (and) *purely for them on the Day of Judgment. Thus do We explain the signs in detail for those who understand".*(Qur'an, 7:32)

He says, passing a death sentence against the superstitious taboo in respect of certain animals. Animal wealth (prevalent among Arab people): *It was not Allāh Who instituted* (superstitious like those of) *a slit-ear she-camel,* (bāḥirah), *or a she-camel let loose for free pasture* (sāibah) *or idol sacrifices for twin-births in animals* (waṣīlah) *or stallion-camels freed from work* (ḥāmmi).. *It is blasphemers who invent a lie against Allāh. But most of them lack wisdom* (5:103).

He calls upon to put to use different fields: *And He it is Who made the earth manageable for you to traverse ye through its tracts and enjoy the sustenance which He provides; But to Him is the resurrection* (67:15).

Islam gives preference to productive investment of money to the consumptive use of it, out of its eager desire for the increase of production and the growth of wealth, as this can be seen from the quoted

tradition of the Prophet and of the Imāms forbidding the sale of landed property or house and frittering away the money realized from this consumption.

B. Islam's Means (for the Growth of Production) on Legislative Sides :

As for the legislative side there are extent in numerous fields, Islamic legislative enactments which are in agreement with the principle of the growth in which Islamic system of economic believes and which help its adaptation and practical application.

We present a few of these legislative inactions and prescripts:-

1. Islam's prescript ordaining seizure of land from the possession of its owner if he lets it remain idle or neglects it till it becomes a waste and is rendered impossible for cultivation. On the basis of the prescript *waliyyu 'l-amr* (the Head of the State) is empowered to seize the land in such a condition, from its owner and take it in his possession so as to put it to the best of it productive use in the way he chooses, as it is not permissible to withhold land from performing its positive productive role; on the contrary, since it is necessary that the land always continues to give its full share conductive to human opulence and make the life enjoyable, so, in case when the right of private property, stands in the way of playing this role, the law ordains that this right be done away with, and the land be adapted to a form which makes possible to its productive utilization.[1]

2. Islam prohibits *ḥimā*. *Ḥimā* devotes a person's taking possession of an area of open space of waste land by force and not by the virtue of doing the work of turning it to render it fit for cultivation and turn it to productive fructification. The law of Islam links the right to the land with the work of reclamation and so on and not with taking forcible possession of it. Force has no business with reclamation and rectification of the land for the good of man.

3. Islam does not give to individuals who were the first to put to productive use the material sources of nature, the right of freezing those

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[1] See vol.2, pt.1, ch.2, dealing with The Theory of the Pre-production Distribution.

sources or delaying the work of reclaiming them; nor does Islam allow them to keep for themselves those reclaimed sources in case of their discontinuing their work on that score, since their domination of these source will lead to the deprivation of the availing of the production of the potentialities from these sources.

So Islam has charged the *waliyyu 'l-amr* (Head of the State) with the task of taking away the material sources of nature from the hands of the individuals who have reclaimed them if they - stop the work of doing so and if he is not able to prompt them to reconstitute their work.

4. Islam does not empower the *waliyyu 'l-amr* to assign to an individual a piece of land except the one who has the capacity to fructify and do the work on it. Since the piece of land which is beyond his capacity to put to productive utilization will mean wasting and frittering away the material wealth of nature and their productive potentialities.

5. Islam has made illegal the acquiring gain without work by way of an individual's giving a piece of land on lease to another individual at a rate higher than what he rented in order to acquire the difference between the two rates of the rent and the foregoing hypothetical supposition of what we have discussed previously.

It is obvious that the elimination of the part of the intermediary between the owner of the land and the farmer who directly cultivates is conducive to abundance of production, since the intermediary plays no positive part in the production but live at the expense of production and not rendering any service towards it.

6. Islam forbids interest, and abolished usury of the capital. Thereby, it has insured the transformation of this cash capital in Islamic society to a productive capital giving its share as to commercial or industrial enterprise:

This transformation (of the cash capital) ascertains two gains for production:-

One of the gains is to exterminate the bitter conflict between the interest of trade and industry and the interest of the money-lending business because the capitalist in a society which believes in the institution of interest, always look forward to the golden opportunity of the time when the need of the merchant and the industrialist becomes acutely pressing and their need of it increases, to raise their rate of interest and keep a tight hold on their purse, to exact the highest possible

price.

But at the time when the demand for money slackens, the need of it by the merchants or the industrials becomes less and the rate of the interest falls, we will find the money-lender becoming liberal by advancing at the smallest return. It is clear that the abolishment of the institution of interest will put an end to this conflict which exists between money-lending tribe and the mercantile and industrial class in the capitalist society, for, the abolishment of it will lead *ipso facto,* to the transforming of the money-lending class which lends its capital at interest to investors of money (*muḍārabīn*) as partners in commercial or industrial enterprises, on the basis of share in the profit.

By this it defines the position of capital, and the capital comes into the service of trade and industry responding to its needs and accompanying its activities.

The second will will accrue, is that the monies which will be invested in the fields of industry, shall go on serving great industrial enterprises and activities of long range with firm determination, surety and peace of mind, because after the abolishment of the institution of interest the money will have before him nothing but a desire for profit and this desire will drive him towards throwing himself into those big enterprising with their tempting incentive of big profits and products. Different will be his case in a society in which the system of interest rules. In that society he will prefer lending his money at interest to his investing it in those enterprises, because, the profit in that case is secure under all circumstances. Moreover, he will prefer to advance his money on short term bill, and would avoid to advance it on long term basis lest he may lose the profit which would accrue if the rate of interest were to rise in the distant future; and on account of this, the borrower will employ their money in short time enterprises as long as the due date of payment will be near so as to return the money to the lender within the specified time along with the amount of interest agreed upon with creditor money-lender. Over and above that the business people under the auspices of the system of interest will not venture upon borrowing money from the money-lender and investing it in any commercial or industrial enterprise unless circumstances demonstrate that they will be able to make profit in addition to the interest which the money-lender exacts. This will hinder them from pursuing many kinds of activities in many circumstances, as it

will freeze money in the pockets of the money-lenders, forbid its casting its lots with the economic field and disallowing any kind of its productive or consumptive out-lay – a matter which will lead to the impossibility of sale of entire commodity goods and to a slump in the market, appearance of crises and convulsive upheavals in economic life. But on the abolishment of the system of interest and the transformation of the usurious money-lenders into merchants, casting their lot in, participating directly in various commercial enterprises and industrial ventures, indeed they will find it to their interest to be content with less profit since they will not be obliged to surrender a part of it in the name of interest. They will find it, too, to their interest to invest their savings from their profit after meeting their needs in productive and commercial undertakings and project. By that will be accomplished the productive and consumptive out lay of money in its entirety instead of its remaining frozen out in the pockets of the usurious money-lending in spite of the needs of the merchants and industrialist for it, and making the investment of a part of the products dependent on its outlay.

7. Islam has forbidden some unproductive crafts (lit. some arts and crafts fruitless from the point of production) like gambling, sorcery (witchcraft) and jugglery. It does not permit earning of income from practice of crafts of this kind that is charging fee for performing them (*And do not swallow your property among yourselves by wrongful means,* 2:188). Indulging in such crafts is frittering and dispersion of men's usefully productive power, and such false returns which are paid to the practitioners of these arts are wasting of that money which could have been converted into an agent of growth and increase of production.

A look at the actual fact of history will reveal and bring home to us the extent of squandering resulting from such kind of crafts and winnings therefrom, the heavy loss which production and all the sound objectives had to suffer on account of the dissipation of the powers, efforts and money on the score of it.

8. Islam has forbidden hoarding of money and their withdrawal from circulation and freezing it. It has done this by imposing tax upon whatsoever of the hoarded gold or silver coins on the basis of which the Islamic State runs. This tax is *zakāt. Zakāt* tax exhausts the hoarded wealth with the passage of time because the imposition of it recurs every year and cuts off two and a half per cent of the hoarded money. The tax is

not left off being imposed till the hoarded money is reduced to twenty dīnār. On account of this it is regarded a gradual appropriation to State treasury, money which is hoarded and from utility freezed out. Imposing of this tax upon such hoarding, all of the monies diverted to fields of economic activities and these perform a positive part in the economic life of the society. In that way production earns much from monies which, but for the tax on the hoarded wealth would choose to disappear in the pockets or coffers of their owners instead of participating in the industrial, agricultural and other economic schemes.

However, Islam’s forbiddance of hoarding is not a mere accidental phenomenon of Islamic legislation, but is expressive of one of the sources of the most important difference between the Islamic economic doctrine and the capitalist economic doctrine. It reflects a method by which Islam has been able to relieve (free) itself from the problems resulting from the anomaly of capitalist role of monies which leads to grave crises and which threaten the movement of production and storms continuously the capitalist society.

In order to make conspicuously clear the momentous difference between the two doctrines on this point, it is necessary for us to distinguish between the original part of money and the incidental part which it plays under the auspices of capitalism and to grasp the difference between these two parts of it and their effect on the production, etc.

Money by its nature is a medium of exchange. Man employed it serviceably in respect of exchange to get over barter difficulties which are born of exchanging of products directly. The premier produces, after adopting the system of the division of labour and after setting up their economic life on the basis of exchange, had found that direct exchange of their produces entailed hardship upon them because if a producer of wheat happened to be in need of wool, he would not be able to obtain it from the producer of wool in return for wheat, unless and until the producer in his turn happened to be in need of wheat. If the shepherd desired to obtain his daily need of wheat, he will not be able to obtain it by way of barter because the price of the sheep which he breeds is greater than the quantity of wheat which he wishes to obtain for his daily need and it will not be possible for him to portion the sheep. In addition to this, direct barter of produces faces the difficulty of determining the value

prices of things available for exchange, since it is inevitable to have knowledge of the value of a commodity comparatively with the value of all the other commodities, so as to know its value relative to them all (see vol.1, pt.2, p.132). The device of money is the remedy of all these difficulties, since it plays the part of a general scale of value on the one side and becomes a medium of exchange on the other side. On the former side it serves as a specifier of the prices of things for, by comparing the value of all the commodities with the value of a commodity which will yield their values are monetarily determined, on the latter side money will be used as a medium of exchange. After exchange was established on the basis of barter, the sale of wheat with wool, – came money and the operation of sale was transformed into two operations, that is operations of buying and selling. The owner of wheat sales wheat for a hundred dirham then performs another operation. He purchases with this money his need of wool. Thus, instead of the system of direct exchanging of commodities, two systems of exchanging of commodities arose and on account of it the difficulties of barter system came to an end.

Thus, we learn that the real part to perform which money had been brought into existence was the part of a scale of common value, and a common medium of exchange.

But money after that was not confined to its discharging this part of it and performing its function of getting over the hardships and difficulties of the barter system but was employed for playing another part which was not related to get over these hardships and difficulties (i.e., the part of hoarding and accumulation). It was in this way that the entering of money in the field of barter, transferred one operation – buying of a quantity of wheat with a quantity of wool – into two operations. It so became that the producer of the commodity of wheat will sell the produced commodity and then will buy a quantity of wool after he used to sell a quantity of wheat and buy a quantity of wool in one single exchange transaction. This separation of the two operations – the selling of wheat and the buying of wool – enabled the seller of wheat to put off purchasing of wool at some later date, not only that it enabled him to sell wheat not for anything but simply by his desire to convert wheat (he holds) into money (cash) and put the money for his timely need. From this arose the money’s role as an instrument of hoarding and accumulation of wealth.

This incidental role of money as an instrument of hoarding and accumulation played a most grave part under the auspices of capitalism. It encouraged hoarding; made interest a great force for beguile to it. This leads to the disturbing or throwing out of order the balance between the entire demand and entire supply of the total commodity productively and consumptively. While this balance was guaranteed in the epoch of barter system, which is carried out on the basis of direct exchange of products with products. The reason is that the producer in epochs produced only to consume what he produced or exchanged for another commodity which he would consume, so the commodity he produces always guaranteed its proportionate demand. Hence, the production equate with consumption or total supply with en-tire demand.

But in the age of money, after the detachment of the buying operation from selling operation it is not necessary for a producer to have with him demand proportionate to the quantity of commodity he produces, since it is likely that he will produce the commodity with the intention of selling it and obtaining money for it in order to add it to whatever quantity of it he has saved up and not to buy with it some other commodity. In such a time there will be found a supply for which there is no demand. On account of this the balance between common demand and common supply will be disturbed and this disturbance will deepen proportionately the intention expresses itself as a natural want of hoarding up and the manifestation of the desire of accumulation with the producers and sellers becomes larger. The result of it a great portion of produced wealth will remain indisposed of and the capitalist market will undergo the difficulties of its disposal as well as the crisis of its amassing; and the movement of production and subsequently the general economic life will be exposed to the gravest of dangers.

Capitalism, for a long space of time, did not realize the truth of these difficulties which accrue from the turn of hoarding which money performs in context of it with the theory of disposal of money according to which whenever a man wishes to sell a definite thing, he will demand money against it not for itself but will do so in order to obtain another commodity which will satisfy his need. This means that the production of commodity creates a demand for a like commodity so the demand and supply always equate.

Then, the theory takes it for granted that the seller of a commodity

always sells a commodity with the aim of buying another commodity in spite of the fact that such a thing is true in the age of barter system wherein the selling and buying operations are double-folded. However, it is not true in the age in which monetary payment system is followed. In that age it is easy for a merchant to sell his commodity with the intention of obtaining additional money and hoarding and amassing up of it for the sake of investing it in the operations of lending it at interest.

In the light of these information in respect of money and its real role and its incidental role and grasp the essential difference between Islamism and capitalism, while the capitalism admits employment of money as an instrument of hoarding and encourages it but legalizing the system of interest. Islam carries out a campaign against it by imposing a tax upon the hoarded, amassed money and encourages the expenditure of money in the consumptive and productive fields so much so that it is given in a tradition on the authority of al-Imām Ja‘far aṣ-Ṣādiq (a.s.) that: "Allāh has granted you redundancy of riches so that you spend it. He has not given you to amass it."

Islam by its campaign against amassing of money puts an end to one of the gravest of the difficulties of production from which capitalist society is suffering, and that on the knowledge that the Islamic society, the economic affairs of which are regulated by the Islamic laws is not obliged to amass and accumulate money for the sake of the growth and increase of production and for the setting up of great schemes or project as is the case with the capitalist society.

The capitalist society will strengthen itself through amassing and accumulation, the building up of huge amounts of capital money, as a result of the accumulation of savings by way of banks and it will be able to employ those tremendous amounts of accumulated savings, in building up huge productive projects. That is so because, it is a capitalist society and the institution rules it. So it is inevitable to seek the help of big private properties put a foot in any big productive project. Since it is not feasible to build up those properties except by encouraging of saving and the pooling together of the savings thereafter through capitalist banks, the capitalist society is obliged to the adoption of these measures for its growth and expansion. But the Islamic society can rely upon the sectors of common and state property for great productive projects and leave to the sector of private property ample rooms to exploit their potentialities.

9. Forbiddance of idle amusements and hectic diversion. There are traditions prohibiting of whatever of the entertainment which divert one's mind away from God and prevent one from remembrance of Him and preventing one from indulgence in several kinds of entertainments, amusements and diversions which melt the vigorous (lit., energetic, earnest, serious) personality and the prime bloom of youth of a man, and which subsequently lead to his withdrawal from fields of genuine fruitful fields of production and labour and to his preference of a life of as much of amusements and diversions which are brought by circumstances, to a life of diligence and (earnest) labour and kinds of spiritual and material operation of production.

10. The endeavour to the prevention of the concentration of wealth in accordance with the verse of the holy Qur'ān (*in order that it may not* [merely] *make a circuit between the wealthy among you,* 59:7). We will explain this when we take up the study and examination of the theory of social equilibrium in the Islamic system of economics. This prevention of accumulation of wealth though it is directly connected with distribution, but is, also indirectly in connection with production, and leads to its damage. When wealth gets concentrated in the hand of a few men, prevalence of misery will become general and the wants of the largest of the large number will become painful acute. Result of this will be that the common people will be unable to consume such quantity of the commodities as well satisfying their needs on account of the reduction of their purchasing power. So large quantities of produces will remain heaped up, unsold, slump will dominate industry and commerce and production will be suspended.

11. The retraction of commercial manipulations, and consideration of them in respect of the fundamental principle as a branch of production; as will be given at the last stage of the revelation of the theory of production. We shall then see the effect of that on the production and growth.

12. Islam allows that the wealth of an individual to be given to his near relatives after his death. The order to this effect is the positive side of the rules of inheritance. It may be regarded as an incentive factor in impelling man towards work and the pursuits of activity of economic complexion, in certain sectors. Not only that but a main factor at the end part journey of a man's life wherein the thought of future become faint

with him, and is replaced by the thought of his children and kiths and kins. Now, he will find in the rules of inheritance concerning distribution of his wealth and property after his death among his near relatives, that which will incite him to work and drive him to strive for the increase of wealth, out of his eagerness for their welfare, as those who will keep alive his name after him.

As for the negative side of the rules of inheritance, they are which deal with the cutting off of his relation with his property and wealth after his death. By these rules it is not permissible for him to settle the fate of his property of his own. This injunction is the result of the general theory of pre-production distribution and is connected with it as we have previously learnt.

13. Islam has formulated the legal principle of social security as we will explain in the coming discussion. Social security plays a great role in a specific sector, because an individual's feeling that he is given a guarantee on the part of the government that the level of his social status, honour and dignity in life is vouchsafed to him even if he fails or suffers loss in his undertaking. This will act as a great psychological prop and increase his enthusiasm. It will drive him to various fields of production. It develops in him a factor to inventiveness and novel contrivance, contrary is the case of one who lacks this guarantee and has not the feeling of such a security. Such a man on many occasions will draw himself from a kind of work and innovation out of fear of probable loss which will threaten not only his wealth or property but also threaten his life and his honour so long as he will not find one who will guarantee him and provide him with the means of his leading an honourable life in case he were to suffer the loss of his money and wealth and were lost in the whirlpool of a great sea. So, he has not the boldness and that resolution which social security awakens in the hearts of individuals who live under its shelter.

14. Islam has declared as unlawful giving social security to able bodied men, who are capable of engaging themselves in economic activities, and has prevented them from living on alms. By this, it has closed down upon them a way to run away from fruitful work. This naturally will lead to recruit their man-power to productive and fruitful work.

15. Islam has prohibited extravagance and squandering. This

prohibition puts a limit to consumptive needs. It makes ready a great deal of money for productive expenditure instead of consumptive expenditure in the fields of extravagance and squandering.

16. Islam has made obligatory upon the Muslims to acquire a sufficiency of the knowledge of all the arts and crafts whereby life is regulated.

17. Nay, Islam is not satisfied with this alone. But has made it a duty imposed upon the Muslims to obtain the greatest amount of that, too, at the highest level, having general information in all the fields of life, in order to facilitate the Islamic society's appropriation of all moral, material and spiritual means which would help it in playing its role of leadership in the whole of the world and whatever of the means as to production that may be therein and their variegated possibilities. Allāh, the Supreme says: *And prepare against them what force you can* (8:60).

Here the word "force" which occurs in the Divine text denotes unbounded absolute meaning. It includes all kinds of power which add to or increase the ability of the nation of the (*ummah*) guided to carry its mission to all the nations of the world. Also, in the vanguard among those powers, are the moral and material means for the growth and increase of wealth and placing nature at the service of man.

18. Islam has enabled the State to take leadership in all the sectors of production by way of its pursuit of the public sector. Obviously, by putting a great sphere of State property and public property under experimentation which the State carries out will make from this experimentation a power directed and guided to other fields. It will enable to similar projects of production to seek guidance from the experience gained in these experiments and to follow the best styles and modes for the improvement of production and increase of wealth.

19. Islam has conferred upon the State power and authority to the utilization of it in the development of public sectors. By this the State will be able to transfer a part of the total existing man-power from private sector, saving it from its being dissipated and will be able to ensure giving all of the available man-power's participation in the overall production movement.

20. Lastly, the State has been given – on the basis of definite norms which we shall shortly examine from the coming stages of the inquiry of the Islamic theory of production – the right of the supervision

over the operation of production and the control planning of it, so as to guard against its following into chaotic disorder or a prey to high-handedness leading to paralysis of it and to causing of violent disturbance of economic life.

C. Economic Policy for the Increase of Production:

These are those services which Islam, as a doctrine, has rendered to the cause of the growth of production and the increase of wealth. After rendering these services to that cause, it has left to the State to examine the objective conditions and circumstances of economic life, and make a survey and take a census of whatsoever the natural wealth which exist in the country, and take a comprehensive view of the reserved man-power the society treasures and the difficulties and the life it is living. Then in the light of all that, and within the terms of the doctrinal limits, it will formulate an economic policy which will lead to growth of production and increase of wealth, and con-tribute to ease of life and comforts of living of the society.

On the basis of this, we will learn the relationship of religion with the economic policy which the State lays down and fixes a scope of time of five or seven years or a more a less time for reaching a definite objective or target at the end of that period. Such a policy is not a constituent part of religion, nor its determination and formulation, a function of religion. The reason is this: The policy is subject to change and modification with the change of circumstances and the kinds of potentialities which the society possesses as well as the nature of the problems and difficulties overcoming of which may be inevitable. For, the inhabitants of thickly populated countries differ from the in-habitants of the thinly populated countries with the wide boundary lines, as to their respective possibilities and their respective problems. Also, the modes of overcoming these difficulties and the mobilization of these possibilities. Thus, for every objective circumstance affects the determination of the policy, which under that circumstance should be pursued.

Therefore, it will be necessary for religion to leave the laying down of the economic policy to the State to make decision which agrees with circumstances which surround it. Religion will confine itself to formulate fundamental objectives and aims for the economic policy, and its general

limits and its general religious frame, and it would be obligatory upon the State to bind itself to it and formulate its policy within its framework.

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WHY DO WE PRODUCE?

We were examining from the theory of production the point on which there is a doctrinal unanimity between ideological trends of different economic systems. We have made it a pivotal point to start from in our approach to the study and examination of the doctrinal differences in detail between these systems of economics.

We have already learnt that the increase and growth of production and the maximum fruitful utilization is the fundamental principle of the Islamic theory of production. It is an objective on which the school of Islamic system of economics agrees in full with the school of all other systems of economics.

Though there is unanimity between these schools on this principle, yet they differ among themselves on the facets of details and their ways of thinking about it due to their laws of thinking and their cultural frame and mould as well as their understanding of universe, life and society.

For example, there is a difference between them about the fundamental objective as to the increase of wealth, and its role in the life of man. So the question: Why do we produce? And: What is the role of wealth? Every school has a particular answer conformably to its ideological basis and its general outlook it has adopted for itself.

We, in our study of Islamic doctrine of economics theory of growth, or for that matter at the time of our study on the theory of any other doctrinal system of economic in that respect will find that to know the system's belief about the principle of production is not sufficient. Rather

than that we find we will have to have a comprehensive knowledge of its ideological basis of it which explains the conception of the doctrinal system about wealth as well as the role. The past ideology plays, and the object it lays down, since the growth of wealth adapts itself to its ideological basis and its general outlook connected with it. It is indeed that the growth and increase of wealth differs according to its specific ideological basis from another ideological basis in this respect, conformable to the framework and method of the realization of it which the ideological basis will impose upon it.

For the sake of determining the ideological basis of the growth of wealth, we cannot separate the economic doctrine as a constituent part of a complete cultural complex from the culture to which it belongs and the conceptions of them about life and the universe.

It is on the basis of this we will choose the Islamic system of economics and capitalist and study the conceptions of both, as well the part each one of them plays and the object each of them will pursue. But we will study them not only as merely two systems of economics but in addition to that we will study them as two different cultural tendencies in order to present the ideological basis for the increase of production from the point of Islamic system of economics in contrast with the ideological basis of the capitalist system of economics for the increase of the production.

Now in the material culture which capitalism represents its historical doctrinal economic facet, the production of the increase of wealth is habitually regarded as a chief objective and a basic goal because wealth is everything according to the criteria by which the man of this culture regulates his life. He looks for no other goal or objective beyond it. He, therefore, strives to work for the increase of wealth only for the sake of the wealth itself and for the realization of the achievement of maximum material comfort and well-being.

Likewise, capitalism looks about in the methods which it adopts and the course which it follows, the attainment and realization of this objective for the growth of wealth as in whole and apart from distribution. It thinks the objective as achieved and fully realized if the total wealth of the society increases irrespective as to the scope and extent of its dispersion in the society as well as without any consideration of every member of the society has obtained his share of

the ease and comfort which increase of wealth has made available in abundance. It has on account of this encouraged and promoted to employ industrial machinery in the machine age of industry because employment of machinery helps increased production and increase of the wealth of the society, even if it rendered idle thousands of those who did not possess the new machine and led to the collapse of small enterprises.

So, the wealth is the chief objective in the material culture, and the growth in the capitalist sense is measured by overall total increased wealth of the society.

In the capitalist thinking binds the difficulty of economic with the scarcity of production and niggardliness of nature and its refraining from response to man's every demand. Accordingly, the remedy of the difficulties is bound with the increase of production and the maximum exploitation of the forces of nature and its treasures by frustration of its resistance and by its increased subjugation to man.

But Islam's position is different from this.

Wealth is not the chief objective of Islam, its seeking it as an object notwithstanding. Nor does Islam look about the increasing of production apart from distribution or on the basis of total wealth.

Nor does the economic difficulty arise from scarcity of production, so its remedy will be for over all increase of wealth.

In what follows hereunder the stand point of Islamic system of economics is given.

1. The Islamic Sense of Wealth:

The view of Islam about wealth and what is connected with Islam's view about wealth as an objective. We can determine in the light of the texts which deal with this side of it and try to explain the Islamic realization of wealth.

We can divide these texts in two classes. The examiner of these texts will find, at the first blush, a contradiction between them as to their ideological contributions about wealth, its objectives and its role. But by the operation of putting together of these contributions will revolve the contradiction of those contributions and a complete sense of Islam about the increase of wealth will take a concrete form on both scores.

Now the following traditions may be put in the first of the two classes:-

a. The Messenger of Allāh (*s.a.w.a.*) said: "Riches are the prime help to the fear of Allāh (piety, *taqwā*)."

b. From al-Imām aṣ-Ṣādiq (a.s.): "The world is the most excellent aid for the world hereafter."

c. From al-Imām al-Bāqir (a.s.): "The world is the best help to the seeking of the world – hereafter."

d. From the Messenger of Allāh (*s.a.w.a.*): "O Allāh bless us and prosper us in the matter of bread, part us not from each other. Had we not the bread, we would not have prayed; not have fasted; nor discharged our duties to our Lord."

e. From al-Imām aṣ-Sādiq (a.s.): "No good is the man, who does not collect money in the lawful way whereby he saves his honour, discharges his debts and discharges his obligations to his near relatives."

f. A man told al-Imām aṣ-Ṣādiq (a.s.): "By Allāh I do seek the world and wish it to be given to me." The Imām asked: "What do you wish to do with it?" He said: "I wish to meet with my need, my children and family members' need; to spend it in the way of Allāh; to go to pilgrimage and perform *'umrah* with the help of it." The Imām replied: "This seeking is not for this world. It is seeking the world-hereafter."

g. It is stated in the tradition: "He is not one of us who renounces this world for the next world; nor he, too, who renounces the hereafter for this world."

The second group consists of the following traditions:-

a. From the Messenger of Allāh (*s.a.w.a.*): "He who loves this world does harm to his next world."

b. From al-Imām aṣ-Ṣādiq (a.s.): "The love of this world is the head of every sin."

c. Also from aṣ-Ṣādiq (a.s.): "Far removed from Allāh will be that servant of Allāh who fancies nothing but his belly and his private parts."

d. From Amīr al-mu'minīn, 'Alī (a.s.): "The greatest help to morality is abstinence from the world."

It is easy for anyone to see the difference between the two sets of traditions. In the first set the world, worldly wealth and riches are stated to be the best help to the life hereafter, while the second set it is stated to be the *sunnah* and chief part of every wrongful and sinful act.

But this contradiction can be resolved by a process of synthesis. Material wealth and its growth is the best help to the life hereafter, and the main part of all the sinful act, because it has two extremes and it is the psychological fame which brings to Light whether it has this extremity or that extreme. In the view of Islam, wealth and its increase is an important objective, but it is an objective of means not an objective of end. Wealth is not the chief or main objective which heaven has placed before man on the face of the earth but as means for a Muslim to discharge his role of vicegerency and to employ it for the sake of the development of all the human powers and elevate man's humanity in all the fields, moral and material. So, the increase of wealth for the realization of main objective of man's vicegerency on earth is the best help to the life hereafter. There is no good in the man who does not strive for it. He does not belong to the fold of Islam who as a bearer of the life mission abandons it and neglects it. As for striving for increase of wealth on its account and for its sake, as well as a main field which he is to pursue in his life and to be absorbed and wholly occupied in doing so, well that is summit and main source of all the wrongful and sinful acts. It is this which removes man far from his Lord, the Nourisher, and which requires to be abstained from.

Islam wants a Muslim to strive for the increasing of wealth in order to gain mastery over it and to derive the benefit from it as a whole, in its creation and not to let it get mastery over him, surrender to it the rein of leadership and to obliterate the great objectives from before him.

Wealth and the modes of its increase which stands as a screen between a Muslim and his Lord, the Sustainer, makes him forget his ardent spiritual desires, disables him from discharging the great mission of establishing and maintaining of justice, on this planet, and holds him fast to the earth, Islam does not admit. Wealth and the modes of its increase, which affirms Muslim's relation with his Lord, the Bounteous Lord affords him to perform his acts of worship in ease and comfort, opens up before him a wide scope for all his talents with powers of their development and perfection and helps him to realize the ideal of justice.

Brotherhood and honour, this is the objective which Islam places before Muslim and drives him towards it.

2. Coordination of Growth Production with Distribution:

The view, connected with the capitalist ideology about the increase of wealth, being at the process of the increase of wealth apart from (its being) a kind of distribution. This view Islam rejects and coordinates the increase of wealth with distribution as an objective and the extent of ease and comfort of individual members of the community, for the growth of wealth in the Islamic sense is an objective of means and not an objective of end as we have learnt from the previous extract. Hence, unless the operation of the increase of wealth participates in imparting wide-spread dispersion of comfort and ease among the individual members of the community and affords them to fulfil the conditions which enables them for giving free play to their choicest natural gifts for the realization of their mission, without this, the increase of wealth does not perform its goodly role in the life of man.

Therefore, we find that the letter which al-Imām ʻAlī (a.s.) wrote to the Governor of Egypt in which he delimits the Islamic programme, he should follow – at the time he wanted to speak about the increase of wealth as an objective of a pious society – in terms of the words of the letter – he did not depict the heaping up and accumulation of formidable pile of wealth but painted a picture of ease and comforts of life reigning over all the members of the society of the pious. He stated this to confirm and lay emphasis on the fact that the growth of wealth is an objective only as far as it is reflected in the life of the people and in their means of living. But when wealth increases in a way disconnected from the life of people and mass of the people devote themselves to the service of its increase, and not the increase of wealth devoted to the service of the people, then in such a case it acquires a kind of idolatry and becomes an objective of end and not an objective of means. The saying of the Messenger of Allāh (*s.a.w.a.*) confirms it, explains this kind of wealth and warns against the danger of it. The saying is this: "The yellow (golden) dīnār and white (silvery) dirham will destroy you as they have destroyed others before you."

On this basis when Islam makes increase of wealth the object of the

society it sets up as its goal is the coordination of the increase of wealth with the general ease, well being and comfort of the people and refuses any mode of the increase of wealth which interferes with its realization and which is detrimental to the people instead of being conductive to their comfort and well being.

In the light of it, we can guess that if Islam, instead of capitalism, had held the rein of authority at the time of the rise of steam engine, age of industry, it certainly would not have permitted the use of the new machine which doubled and redoubled production as far as it exposed to peril and put in jeopardy thousand of manual artisans except after gaining mastery over the difficulties which the machine would have entailed upon these artisans, because giving permission of the machine for the increase of production before having overcome these difficulties and the misery, it would have cause, it would not be an objective of means but an objective of end.

3. Islam's Conception of Economic Problem:

Lastly, Islam thinks that the economic difficulties are based on the actual conception of the affairs not arisen from scarcity of material resources nor niggardliness of nature.

True, nature's sources of production are limited and man's need are many and diverse.

Truly, our mythical society will enjoy unlimited sources and the plentifulness of the abundance of air, safe and sound from economic difficulties. No poor man will exist, therein for each and every man will be able to satisfy all of his needs in this paradise.

But this does not mean the economic difficulty which troubles humanity arises from the non-existence of this paradise. Rather, the attempt at the explanation of it on the basis of it is nothing more than a kind of escape from the confrontation of the actual reason of the difficulty capable of solution by projecting its imaginary, *raison dètre,* the solution of which is not possible in any circumstances, to be a justification for the admission of the conclusiveness of the solution and confines the proportionate treatment of it to the increase of wealth, as an operation, the object of itself that subsequently will lead to the formulation of the economic system in the frame of the difficulty –

instead of discovering a system which will put an end to it, as capitalism did when it projected the mythical facet of the difficulty. It appeared to it that as long as nature is niggardly or is incapable of satisfying all the needs and wants of man, it is but natural for these needs to conflict and interfere with each other and in that case formulation of a system of economics which puts in order those needs and limits what of them should be satisfied, becomes inevitable.

Islam rejects to admit all that in its entirety and looks at the difficulty from its factual soluble side. We find that solution in holy words of Allāh, the Supreme:-

> *Allāh it is He Who created the heavens and the earth, and sent down out of heaven water wherewith He brought forth fruits to be your sustenance. And He subjected to you the ships to run upon the sea at His commandment; and He subjected to you the rivers and He subjected to you the sun and moon constant upon their courses, and He subjected to you the night and day, and gave you of all you asked Him. If you count Allāh's blessing, you will never number it, surely man is sinful, unthankful!* (Qur'ān, 14:32-34)

These holy verses after exhibiting the sources of wealth which Allāh has bestowed upon man assure that they are sufficient for the satisfaction of man's wants and needs and the achievement of what things he asked for (*and He gave you of all you asked Him*). *So,* the actual difficulty did not arose from niggardliness of nature or its inability of responding to man's needs, this only was created by man himself as the last portion of the verse declares from man's injustice and ungratefulness. (*Indeed man is the most unjust and the greatest of the ingrates*). *So* man's injustice as regard distribution of the wealth and his ungratefulness in respect of gifts of Allāh, by a thoroughly complete exploitation of the sources favoured upon him by Allāh, the Supreme, are the two paired reasons for the life which the miserable man has been living ever since the remotest ages of history. It is possible to overcome the difficulty by the explanation of it on the human basis and putting to an end to injustice and ingratitude through creation of equitable relations of distribution and the mobilization of all the material forces for the fructification of nature and the uncovering of all its treasures.[1]

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[1] See, *Iqtiṣādunā,* vol.1, pt.2, pp.111-113.

RELATION BETWEEN PRODUCTION AND DISTRIBUTION

Does there exist any relation between production and distribution?

It is a question in reply to which Islam and Marxist differ fundamentally from each other on the doctrinal plane of economics.

Marxist affirms the existence of this relation. It believes that every form of production presupposes, conformably to the law of evolution and change, a particular kind of distribution, consonant with that form of production. It accompanies its growth and its evolutionary change. When production assumes a new form which does not agree in its movement with relations of distribution which the previous form imposes, it becomes inevitable for these relations of distribution to vacate their place after a conflict and bitter struggle for the new relations of distribution. Coalesce with the dominant form of production helps to development and movement. Thus, Marxism considers that the system of distribution always follows the form of production and adapts itself to its need. This dependence of the system of distribution upon the form of production is an inexorable law of history, unchangeable and unmodifiable. The basic proposition in the life is that he produces and production goes on and increases continuously. And who are those who confer the right of owner-ship of the means of production, and its distribution is accomplished on the basis of slave-ownership or feudal ownership, or

bourgeois-ownership or proletariat-ownership? All this is fixed by the expediency and interest of production itself. Production assumes, at every stage of history, the mode of production timed to the distribution's growth in its frame.

We have learnt this theory of Marxist with expatiation in the first volume of the present book (*Iqtiṣāḍunā*) and were able to draw from our study a conclusion contrary to the theory, convict it philosophically and scientifically as well as demonstrate its failure of the historical interpretation of it[1] Likewise, we have learnt the standpoint of Islam about this theory and its rejection of the dependence of distribution on the form of production,[2]

The Guidance of Islam to Guarantee the Equity of Distribution:

Islam when it denies the dependence of distribution upon the form of production and the conditioning it confirmably to the force of the natural law of history, as assumed by Marxism does not sever all the relation (Islamic) between distribution and the form of production. But in its (Islamic) opinion this relationship between distribution and production is not a relation-ship of dependence in accordance with the law of nature, a relation of which the doctrine presupposes. It limits therein production to the account with distribution instead of adopting distribution to conform in accordance with the needs of production, as has been fixed by the Marxist theory.

The idea regarding this relationship stands on the basis of the following points:-

Firstly: Islamic economic system regards the law (the norm) which brings, as a permanent law, invariable and valid for all the times and all the places. It holds unchangeably valid in this age of electricity and atom, as it was held unchangeably valid in the steam age and as it did in the age of wind-mill and manual labour. For example, the law which says: 'It is the right of a worker to keep the fruit of his labour'.

Secondly: It regards the process of production which a worker executes, a phase of that general law in respect of distribution, reclaiming

1 See *Iqtiṣāḍunā*, vol.1, pt.1, pp.3-198.
2 See *Iqtiṣāḍunā,* vol.1, pt.2, pp.114-124.

of a dead-land, disembowelling of a water-spring, cutting of wood, extraction of minerals, all these are the process of production. But they, at the same time, fulfil the function of the application of the general law of distribution on the wealth produced. Therefore, the sphere of production, is then the circumstance for the application of the laws of distribution.

Thirdly: That when the production raised its level and its power of possibilities increased, the man's domination over nature would grow and then it would become possible for a man equipped with forces of production to carry out his activity over nature on a scale and scope wider and more extensive than the spheres of production it was feasible for him before the growth of production and the elevation of its level.

From the accounting of these points we learn that, the evolution of production and the growth of its force would make it. feasible for the man more and more utilization of the phase of the application of the general law of distribution in the course of the process of production he is carrying on. This utilization is likely to reach to a degree which will constitute a danger to general balance and social justice, as it obtains in Islam.

Let us take the example of the revival and putting into reclamation of a dead-land. Man in the manual labour age was not capable of putting to tillage distant areas of land. Since the theory does not give permission of the employment of its execution on that account, while he was not able to undertake with the help of the indigenous materials, before the age of instrument recultivation of a dead-land except within specific bound. Therefore, it was not within his power to make misuse of the phase of the application of general law of distribution nor was it within his power to take into his possession huge areas of land, in conformity with the law which confers upon a reclaimer of a dead-land, and the right to the ownership. But the age of instrument gives man the power of rehabilitating those huge areas, and make misuse of the phase of the application of general law of distribution. Under this circumstance guiding the application towards the purpose which corresponds with the Islamic ideal of justice becomes inevitable.

From this arises the doctrinal relationship between production and distribution in the Islamic system. In fact, it rests upon the idea of directed application which defines production as a process of application

of the law of distribution, a limitation which guarantees equity of distribution along with its consonance with the Islamic ideals and aims.

Islam embodies the phase of the application which limits production in proportion to distribution, by bestowing upon the State the right of interference to the Head of the State (*waliyyu'l-amr*) as regards the application of the law and forbidding the misuse of it (distribution). In the example which we have offered, the Head of the State possesses the right of forbidding an individual from undertaking revival of a dead-land except within limits which conform to the Islam's idea of social justice. Likewise, it lays down the principle of the State's right of interference. We will examine it, in detail in the future discussion of it.

Thus, we learn that the development and growth of production certainly impose upon the Head of the Islamic State the duty of interfering in the guiding of production and the determining of the spheres of the application of the general law of distribution without touching the essence of the law itself.

This means that the principle of the State interference which permits to its guidance of the application is the law by which Islam ensures the fitness of its general law of distribution and its consonance with its ideas of social justice for all time and place.

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RELATION BETWEEN PRODUCTION AND CIRCULATION

Production as we know is a process of evolving of nature, natural material in the best form regarding man's requirement.[1]

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[1] In the traditional words, production is creation of a new use (of a thing).

We have chosen the first definition of production because those who know it in the second form, have fallen in meaningless generalization. They interpret the use as a quality of a thing which makes it fit for satisfying any need or requirement. They say it is not an intrinsic (subjective) or extrinsic (objective) of a thing but is born merely by the desire for it. Even though this may arise from a false or erroneous estimation of it. For instance, the desire for nostrums (drugs) arising from erroneous belief about its effectiveness in protecting against infections or epidemic diseases.

Definition of production and use of a thing in this shape or includes in the production, and individual's work or convincing the common people with the usefulness or curativeness of a definite thing because this thing creates a new use of it and leads to causing the thing to enjoy the quality of satisfying the general desire in despite of the fact of the individual's performing no work on the substance.

This is the generalization which the traditional definition sustains. Therefore, we said that production is the process of evolving in the best form of nature regarding man's requirements. By this, the work depends upon acquisition of the stamp-mark of production on the created usufruct aimed at a hit performance of a kind of work on nature.

Circulation in material sense means transport of removal of thing from one place to another and circulation in legal sense means – and it is this we propose to discuss here – all of the commercial operations accomplished by way of barter contracts sale, contracts, etc.

Obviously, circulation in the material sense is a variety of process of production; for the transport of a thing from one place to another on many an occasion creates a new use and signifies evolving a material in the best form or shape according to man's requirement, equally on the transport's being vertical. For instance, in respect of mineral works. They carry out the work of removing the primary natural materials from the bowels of the earth to the surface of it or the transport's being horizontal. For instance, removal of a thing to a place nearer to its consumer and making handy delivery of it to them. Since the transfer in this form is a kind of evolution to a better form, in respect to the needs of man.

As regard circulation in legal sense, and the transfer of the right of property from one to another – as we have noticed in the commercial operations – it is a prescribed practical law which must be realized; and it establishes its relationships with production on doctrinal basis.

We can, therefore, study the view of Islam about the relation-ship between the production and circulation and the nature of the connection which establishes it between them on the general doctrinal lines.

The Islamic conception about circulation and its relation-ship with production, doctrinally, does not only participate directly in doctrinal conception but also plays an important part in the formulation of the general policy about the sphere of circulation and the filling of the lacuna which Islam has left to the State to fill according to circumstances.

Islam's Conception of Circulation:

The Islam's conception of circulation which comes to light from the study of the texts and prescriptive dicta of and the general juristic trends is that circulation in Islam from the point of principle is a sub-division of production and should not be separated from its general sphere.

This Islamic conception to which allude to in respect of a number of texts and prescriptions agrees fully with the story and its rise historically and the local needs and requirements which begot it.

Circulation, most probably did not exist in societies in wide sphere in

which what they produced was sufficient to satisfy their requirements for the reason that the man who live in this self-sufficiency did not probably feel the need of obtaining the produces of another individual in order to carry on a variety of circulation and exchange with that individual. Circulation arose in the life of man as a result of the division of labour which made every man to begin to pursue in accordance with it, a particular branch of production and to produce a quantity of that branch of produce in excess of his requirement and to obtain his entire requirement of a commodity from the producer of that commodity through the medium of exchange – his giving them their requirement out of the commodity produced by him against the commodities produced by them. Multiciplicity and diversity of requirements and needs imposed the system of the division of labour in this form and subsequently led to the wide range dispersion of the system of circulation.

The producer of wheat confines himself to the production of wheat, and defrays his requirement of wool by carrying a quantity of wheat in excess of his requirement to the producer of the wool who requires on his part. He hands over to the producer of the wool his requirement of the wheat and receives from him .against it the quantity of wool he desires.

We see in this manner that the producer of wheat is directly connected with the consumer, likewise, the shepherd as a producer of wool gets in contact with the consumer of wool in the operation of circulation without the medium of an intermediary, in accordance with this manner the consumer is always a producer as regards to the other.

The varied evolution of circulation gave rise to an intermediary between the consumer and the producer. It comes to be that the producer of the wool does not sell his wool directly to the producer of wheat in our previous example but catches hold of a third person who will play the part of the intermediary between them. The third person will buy the wool not to consume it for his requirement, but to adopt it and render it for the hands of the consumer's receiving it. So instead of the producer of wheat getting in contact with the producer of wool initially, it comes to be that he meets this intermediary who makes wool for the market and makes it ready for sale, agrees with him as to its purchase. From here begins the commercial operations. It then comes to be that the intermediary devotes a great deal of efforts on the producers and consumers.

We learn, in the light of this, that in both periods of circulation or transfer of ownership – the period of the producer to the consumer and the period of the intermediary merchant a work of production was done on the part of one who transfers the ownership of the commodity and receives the price of it. In the first period the producer of wool carries out the work of producing the wool himself, then transfers its ownership selling it in consideration of a return. In the second period the intermediary carries out the work of transferring the production to the market, protecting it and make it ready to give it into the hands of the consumer, when he desires it. This work is (also) a kind of production as we have already learnt.

This means that the benefit or gain which a seller reaps from transferring of the ownership for a return or compensation – and it is what we now call it profit – was the outcome of a productive work which the seller carries out but was not an outcome of the operation of the transfer itself.

But the mastery of selfish commercial motives led to a change and deviation of it from its natural form, resultant of healthy, positive legal requirement and especially, in the present day capitalist period. From that resulted the separation of the circulation and exchange, many a time from production and the transfer of ownership came to be an operation meant for itself without any productive work on the part of the transferor preceding it, which he carries out for the sake of acquiring benefits and profits, while trade was the source of these benefits and profits as subdivision of production, it became a source of merely being a legal process for the transfer of ownership. Therefore, we will find in the capitalist trade that the legal process multiplied in respect of one single property – thing, following from the multiplicity of the intermediaries between the producers and consumers for anything but in order that as many of the number of the capitalist merchants possible may acquire the profit and earnings from those operations.

It is natural that Islam will reject this capitalist deviation because it is contrary to its meaning and conception in respect of exchange and a look of it towards it as a component of production as we have said above. That is why it treats and regulates cases of circulation always with a specific look at it and tends, in respect of legal systems of barter contracts, to a decisive course in the direction of non-detachment of circulation from

production.

Doctrinal Evidences on the Conception (of Circulation):

After seeking to understand clearly where the traces of Islamic conception of circulation [1] could be found, it is easy to glance at the conception in the doctrinal evidences of Islam and in a collection of juristic prescriptions drawn together in the upper-structure of the law of Islam.

Among the texts which reflect this conception and specify Islamic look, is a text which occurs in the latter of ‘Alī (a.s.) to his governor of Egypt Mālik al-Ashtar. In the letter, ‘Alī (a.s.) lays for him a programme of work and specifies the concepts of Islam, then says: “Then admonish with kindness merchants, men of profession (artisans, industrialist) for the recommendation given and enjoin on them to do good – the resident of them the one troubled about his wealth, one who physically support, they are sources of benefits, the means of public utilities, the importers of far away things and isolated dump places on your land, your sea, your mountain and your plan whence one cannot combine together and venture upon.”

It is obvious from this text that the class of merchant is put in the same rank with the class of professional men, artisans and industrialists and generalizes them all to be the sources of benefits. Just as the merchant creates so also does the professional, artisan or industrialist, and follows with the explanation of the benefit or profit which the merchants create and the operations they carry out the bringing of far removed things and cast out isolated place, which men do not combine to venture upon.

The trade, then, is, in Islam, a kind of production and a fruitful labour and his earnings therefrom is the result of not only for an operation in its legal orbit.

This Islamic conception is not merely the essential of circulation denotes because it presents the basis in the light of which the (Islamic) State fills the lacuna left to it to be filled within the bounds of its

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[1] We had better devote this kind of conception with the Islamic trend to distinguish it from Islamic prescriptions.

capacities as hinted earlier by us.

The Juristic Trend Which Reflects the Conception:

As for the prescriptions and legislative enactments which reflect Islam's conception of circulation, we can find it from a number of juristic texts and jurists' opinions as follows:

1. In the opinion of a number of jurists like al-'Umānī aṣ-Ṣadūq, ash-Shahīd ath-Thānī and others: If a merchant, for example, buys wheat but has not taken it in his possession; it will not be permissible for him to make a profit through selling of it at a higher price, but it will be permissible for him after he takes it into his possession even though the legal transfer is completed in the Islamic jurisprudence with the execution of the contract and does not depend on any positive work thereafter. The merchant becomes the owner of wheat even if he did not take possession of it yet, in spite, of that it is not permissible for the merchant to do so and acquire profit in respect of it by selling it at a higher price as long as he does not take the goods into his possession, the desire being that the profit should be linked with work as also to exclude letting more trades being a legal transaction a cover of profit.

There are a number of traditions in which this opinion is indicated:

In a report of 'Alī ibn Ja'far, it is stated that he asked al-Imām Mūsā ibn Ja'far (a.s.) in respect of a man who buys food. "Is its sale permissible before he take possession of it?" al-Imām replied: "If he makes profit then it is not valid before he takes possession of it. But if it was by way of *tawliyyah,* that is he sells it at the very price at which he purchased it without any profit, then there is no objection. "

2. In the opinion of al-Iskāfī, al-'Umānī, al-Qāḍī, Ibn Zuhrah, al-Ḥalabī, Ibn Ḥamzah and many other jurists: "If a merchant purchases goods to take delivery at a different time and pays the price thereof forthwith even in that case it is not valid for him to sell the goods after the due date comes to pass, at a higher price before he takes possession of the quantity of the goods he has purchased. Now, if you purchase wheat from the farmer, and it was agreed with him that he will hand over to you the total quantity of the purchased wheat after a month, you paid forthwith the price, it is not valid for you after the passing of the month to sell it for more before you take delivery of the purchased

quantity of wheat and avail of the legal process of the transfer for the sake of acquiring new profit. You can, however, sell the goods at the very price as you purchased it."

The holders of this opinion rely upon a number of traditions. It is stated in a tradition that Amīr al-mu'minīn, 'Alī (a.s.) said: "He who purchases food or fodder to be given to him after a fixed time, (makes a differed purchase). If its condition was not met with, and cash was taken, then he cannot take anything but his principle, for, on this basis, he will do no wrong, no wrong will be done to him." In another tradition reported on the authority of Ya'qūb ibn Shu'ayb that: he asked al-Imām aṣ-Ṣādiq (a.s.) about a person who sells in advance a quantity of wheat and date for one hundred dirham, when the time is ripe, the man to whom he made the advance sale comes to demand the goods he had purchased. The man tells him: "By God, I have not more than half of what I have sold to you. So if you wish you can take from me half of the quantity you purchased and half of the cash money you gave me." He (al-Imām) replied: "There is no objection if he takes from him the cash as he gave it, that is one hundred dirham."[1]

3. In many of the prophetic traditions prohibition against going out to meet the caravans (of merchants) and city-dwellers selling for the desert-dweller. It is given in the tradition that the Messenger of Allāh (*s.a.w.a.*) said: "No one of you shall meet commercially outside the city nor city-dweller shall sell for the desert-dwellers."

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[1] These texts point only to the law when aimed at the prohibition occurring therein; forbidding the buyer from selling whatever he purchases in advance before taking possession of it after the due date befalls, at a higher price. But if the texts mean a statement (explanation) of what a buyer can demand if the sale contract is cancelled (broken) on the authority of his right of option resulting from the failure of deliver of the commodity on the part of the seller within the fixed time, then the meaning of the prohibition in respect of it will be that if the goods which the buyer purchased in advance are not delivered to him within the fixed time, and the sale deed is cancelled then he has the right to the recovery of the self — same price which he had handed over to the buyer before hand. On this supposition, there remains from the texts for the prohibition against selling it at a higher price before taking delivery.

Receiving or Meeting the Caravan of Merchants' Means:

A merchant goes out of the city and receives owners of commercial goods, buys the goods before they enter the city, returns to the city and sells the goods to the people. And the city-dweller's selling for the desert-dweller means a city merchant takes charge of the village people who are advancing towards the city, carrying with them their fruits and milk products, etc., buys them from them sells and trades with them.

Clearly, prohibition against these two transactions bear the stamp-mark of Islamic trend which we are trying to establish. The prohibition is aimed at dispensing with the intermediary and the parasitic part he plays by standing in front of the way of the owner of the goods meeting face to face the consumers of the goods not because of anything except on the basis of hurling himself between them. The intermediary here, Islam does not welcome an intermediary undertaking which denotes no productive content of productive operation save more aim of exchange for the sake of profit.

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FOR WHOM DO WE PRODUCE?

I wish to project the position of capitalism about this question to prepare, through comparison of the Islamic position, thereby the answer from Islamic point of view with its specific features and characteristically distinctive stamp-marks.

Capitalist Position:

Capitalist system of the doctrine of economic in directing production relies upon the price which determines supply and demand in the free market. The free (*laissez-faire*) capitalist system of economics is based on private enterprises. These enter-prises are operated and run by individual and are subject to their will and pleasure. Everyone of these individuals runs his enter-prise and draws lines of his production conformably to his interest and his desire to earn maximum amount of profit. It is the sense and feeling of profit which conditions with every individual his production and direction of his activity. Profit follows the movement of price in the market. So, whenever the owner of the enterprise, gets information about the rise of the price of a commodity or an article he directs his attention to the production of that commodity or article in bulk in the hope of earning ample amount of profit. It is obvious that the rise of the price of an article or commodity in the market reflects

in healthy and sound circumstances, an increase in the demand for that article or commodity. It is this (i.e., the rise of the price) which capitalism holds to be responsible for the bond of production with demand, profit being an incentive to production. It is the rise of the price which rules capitalist enterprises with profit and it is the rise of the demand which leads to the rise of the price. So the production, in the end, is directed for the sake of the consumers and conditioned to their requirements which express themselves in the increase of the demand and the rise of the price. In the light of this, capitalist system replies to the posited question. For whom do we produce? that the production is undertaken on account of the consumers and for their requirements and is mutually related forward, backward and direction wise with these needs and requirements.

Criticism of Capitalism's Position:

This is the conspicuous picture of the capitalist production or it is the beauty picture in which the adherents of capitalism seek to project incased in its florid frame in order to establish by proofs the mutual concord and the conjunction, under the shelter of capitalist system of economics, between two lines, production and demand and their general movements.

But this picture, in spite of its being partially true cannot conceal the crying contradiction, under the capitalist system of economic (in the relation) between production and demand. It does expound the mutual sequence of different links between production and demand, but does not specify the purport of demand nor does it uncover the capitalist conception to examine this demand which lures arbitrarily over demand and directs it through the medium of rise in the price of commodity.

The fact is that dividend in the capitalist sense is a cash interpretation of requirement more than its being a human interpretation of it, because it comprises only of a specific part of it – it is that demand which causes rise of price in the market, that is, a demand enjoying purchasing-power and owning a ready cash balance capable of satisfying it. As for those cash show demands which are capable neither of alluring or tempting the capitalist markets, nor of raising the price of the commodity for want of possessing the wherewithals to purchase it, their fate is neglect howsoever importunate and necessary they may be. How-ever, common

and exhaustive for the one who demands must prove his demand with the money he presents and as long as he does not present this proof, he has no right in respect of directing the production more nor have the right of a `say' in the capitalist economic life, even if it springs from the core of human reality and its over pressing needs.

No sooner we learn this capitalist conception of demand than are dissipated at once all those golden dreams which supporters of free (*laissez--faire*) economic system, weave around the capitalist production and which they adopt them conformably to the wants and demands, because the purchasing power is increased in the case of the fortunate few and reduced in the case of others and the level of basis from which the majority of the capitalist society is composed suffers a great decline. The outcome of this formidable disparity purchasing-power – from the capitalist point of view – will be that the demands possessing enormous purchasing-power will obtain exclusive control of the direction of production and dictate its will and pleasure to it, it being the incentive which lures the owners of the enterprises, make them lick spittle at what will lead to the rise of prices and to the denial on account of this, the living need of the common man, for want of its enjoying the tempting purchasing power.

When the demand used to enjoy enormous force, purchasing power will be able to attract from capitalist market the commodity of necessity and luxury and article of amusement and means of living in ease and luxury. While the indigent demands will be unable to attract entirely necessary things, then that will lead to the capitalist enterprises enlisting all their forces and employ them towards those means of luxurious life and those inordinate greedy desires for the satisfaction of which the variety of the inventions and device of new luxurious article is ceaseless and persistent on demanding articles of merry-making and means of enjoyment and pleasure and the multiplicity of demand from the common people exceeding in number for necessary good and materials for the maintenance of life continue to remain unattended to, except within the bounds of what is put by for the big working hands. In this way, the capitalist markets are filled with varieties of goods and articles of luxury and pleasure while occasionally there is a want of enough quantity of a necessary commodity which can be sufficient to full satisfaction of all.

This is the position of capitalism in respect of its production and

method upon which it relies upon in the determination of its movement.

The Position of Islam:

As for Islam the substance of its position can be given in the following points:-

1. Islam, to satisfy the basic needs and requirements of all the individual members of the society, renders it obligatory for social production to increase production by producing a quantity of commodity capable of satisfying those wants and requirements in a sufficient degree which would permit every individual to take from it his necessary requirement. Unless the level of sufficiency and the minimum limit of the production of the commodity increases it will not be valid to direct the forces capable of increasing that level of sufficiency and the limit of the minimum production of the commodity, to other fields of production for want or need itself plays a positive role in the movement of production irrespective of the economic and cash balance power of that want or need.

2. Likewise, also, Islam makes it obligatory for social production that it does not lead to extravagance and prodigality. Extravagance or prodigality are forbidden in Islam, equally whether it is occurred in an individual's private expenditure or use or in a public use or expenditire by the society in the course of the movement of production. It is also forbidden (in Islam) for one to wash the ground of his house with expensive perfumes, since it is extravagance (*isrāf*). Similarly, it is forbidden to the society or – in other words – producers of perfumes to produce perfumes more than the need of the society and its power of consumption and trade, because the surplus production is a kind of extravagance and waste of the wealth without justification.

3. Islam permits Imām's interference in the production on the following justificatory grounds:-

Firstly, in order to enable the State, to guarantee minimum limit of the production of necessary commodity and the maxi-mum limit which is impermissible to be overpassed. It is clear that the running of the private projects in conformity with the will and pleasure of their owners undirected centrally on the part of the legal authority will lead to periods of complicated and mass production to expose it to

extravagance and wastefulness on one side and to the prodigality to the minimum on the other side and to guarantee the social production running its course between the two limits of excess and paucity by supervision and direction of it.

Secondly, for filling the lacuna according to exigencies of circumstances. The zone of lacuna combines by its nature all kinds of permissible activity. The Head of the State (*waliyyu'l-amr*) has a right to interfere in any of them in the light of the general aim and objective of the Islamic system of economy. We shall give details about this zone of lacuna, its limits and its role in our future discussion. The competencies conferred upon the Head of the State to make interference with and supervision over the movement of production, and determining and„confining it within the limit of the filling of the zone of lacuna left to the State, a part of its right.

Thirdly, the Islamic legislation concerning distribution of raw natural materials (lit., riches) make, by its nature, room for the State, to interfere and supervise the entire economic life since Islamic legislation in this respect makes pulling in of direct labour a basic condition for the appropriation of the natural raw materials and the acquisition of special right according to juristic statement mentioned in some of the previous upper structures of Islamic law, this will mean, by its nature, the impossibility of an individual's establishing a big project for the investment of nature and its raw materials notwithstanding whatsoever of his possibilities of it so long as he does not acquire his right to them by direct labour. So, the process of the production of natural raw materials and mining industries were .assigned to be accomplished with the legal authority regulating them to enable through it to establish big enterprises for fruitful exploitation of those wealths and to place them at the service of the Islamic society.

If and when the State's supervision over the mineral industries and the production of primary raw materials were completed then it will have the indirect control over different branches of the process of production in respect of economic life because most probably they will be dependent upon mineral industries and the production of primary raw materials, that it will be possible for the Head of the State to enter various branches indirectly by way of supervision on the first and basic stage of the process of production, that is, the process of the production of the natural materials.

CHAPTER THREE

STATE RESPONSIBILITY IN ISLAMIC ECONOMY

I- SOCIAL SECURITY

Islam has prescribed to the State the duty of providing social security in respect of the standard of living for all the individuals of the Islamic society. The State usually sets about discharge of this important duty in two places. In the first phase, the State furnishes an individual with an opportunity of a generous share of fruitful work, in order that the individual may earn his livelihood with his own labour and effort. However, when an individual is disabled from doing ,work and earning his livelihood wholly by his own labour, or when in an exceptional circumstances, the State is unable to afford him an opportunity of work, comes the second phase wherein the State pursues the application of the principle of social security by way of making ready availability of an adequate amount of money to defray the expenses of the needs and wants of an individual and to fix a particular limit of his standard of living.

This principle of social security is set up on the two bases of the Islam's doctrine of economics and receives or draws its doctrinal (economic) justification from them both.

The first of these two bases is a public reciprocal responsibility, and the other is, the right of the society to the public resources of the State.

Either of these two bases has its limits and its exigencies in respect of the determination of the kind of wants the satisfaction of which should be guaranteed as well as the fixing of the minimum standard of living which the principle of the social security should afford to the individuals.

The first basis of the guarantee of social security requires a guarantee for no more than the bare necessities of life and over pressing needs and wants of an individual, whilst the second basis of the guarantee of social security adds to that and makes obligatory a guarantee of satisfaction of larger needs and higher standard of life.

It is incumbent upon the State to practise guarantee of social security on both of the bases within the limits of its powers and competencies.

In order to determine the idea of the principle of social security in Islam it is necessary for us to expound both of these bases of it, their exigencies and legal proofs of them.

The First Basis of the Principle of Social Security:

The principle of public reciprocal responsibility is the first basis of the principle of social security. Islam has prescribed it for the Muslims as a *fardu 'l-kifāyah* (a common duty). It constitutes the support of and maintenance of some people by some other people. The support and maintenance of some people by some other people is a duty incumbent upon a Muslim within the bounds of his means and powers. He has to discharge it just as he has to discharge all of his other duties.

The function which the State pursues in respect of this principle of the common reciprocal responsibility of the Muslims, expresses, in fact, the State's role of compelling its subject to comply with what the *sharī'ah* has charged it with and seeing to it that the Muslims of their own abide by the laws of Islam and its capacity as a ruling authority being charged with the application of the laws of Islam and having power to enjoin the do's and prohibits the don'ts of Islam is answerable in respect of its charge and is vested with the right to compel forcibly every individual under its rule to carry out his religious obligations and his compliance with the execution of the task with which Allāh, the Supreme has charged him. Just as it has the right to compel forcibly Muslims to go out on *jihād,* so in the same way it has the right to compel them forcibly to discahrge their obligation in respect of the maintenance and support of

the disabled if they refuse to do so. In accordance with this right, it is feasible for it to afford social security to the disabled on behalf of the Muslims and to impose upon them within the bounds of its means and powers to render assistance with a sufficient amount of money towards implementation of this guarantee and to make them discharge their duty and obey the order of Allāh, the Supreme.

In order that we may know the limits of the social security which the State will pursue on the basis of the principle of the common reciprocal responsibility and are kind of wants it will satisfy, we should ask to be shown some of the legal texts which to this principle of the common reciprocal responsibility and to determine in the light of it how much maintenance and support is a duty incumbent upon the Muslims and subsequently the limits of this principle of social security the State will pursue on this basis.

It has come in a sound tradition on the authority of Samā'ah that he asked al-Imām Ja'far ibn Muḥammad (a.s.): "There is a group of people. They have excess (of wealth) while their brethren are in severe needs, and *zakāt* will not suffice them. Can they eat to their fill while their brethren go hungry? The time is hard." " A Muslim is a brother of a Muslim", replied the Imām. "He shall not wrong him, neither shall he abandon him in bad condition, nor deprive him. It is a duty incumbent upon a Muslim to strive after, keep friendly relation, cooperate with each other and be sympathetic to those in need."

In another tradition (it is stated): al-Imām Ja'far aṣ-Ṣādiq (a.s.) said: "Whosoever of the faithful denies a faithful a thing of which he is in need, while he can give it out of what he has, or somebody else has, will arise (from his grave) on the Day of Resurrection, with his face blackened, his eyes blinded, and his hands tied to his neck. Then will be said: 'This man is a dishonest who had committed dishonesty against Allāh and His Messenger.' Then he will be ordered to Hell." His being ordered to Hell, obviously proves that the satisfaction of the need or want of a brother believer is a duty obligatory upon a believer within the limits of his means and capacity because a believer does not enter Hell for omitting what is not obligatory on him, which is his duty to do.

Though here the term *'ḥājah'* (need, want) in this tradition occurs in a general sense, but in the preceding tradition it occurs in the sense of a severe need, because the charge and guarantee of a collective satisfaction

of a want or need other than severe is not an obligatory duty on the Muslims.

From this it follows that it is a guarantee within the limits of severe needs and wants when Muslims have sufficient provisions in their possession and to spare, then in that case, they cannot, within the term of the first tradition quoted herein above leave their brother in privation, on the contrary it will be obligatory to satisfy his need and afford him the means to relieve him of it.

Islam has linked this guarantee of social security with the general principle of general brotherhood of Muslims in order to show that it is not a superior kind of income tax but a practical expression of the principle of general brotherhood of the Muslims. It proceeds from it by its way of giving the prescription a moral frame agreeing with its conceptions and values, for a man's right to support and maintain by some other man receives its Islamic sense from his brotherly feeling for him and from his feeling of that man's inclusion along with him in the just human family. The State carries out, within the bounds of its means and powers, the protection of this right. The needs the satisfaction of which this right secures are severe needs, severe needs by their nature mean bore necessities needs without the satisfaction of which life would be difficult.

Thus, we know that the social security on the basis of reciprocal responsibility is confined, according to it, within the limits of the basic needs of individuals without the satisfaction of which life would be difficult for them.

The Second Basis of Social Security:

But the State does not derive its justification for the social security, it exercises only from the principle of reciprocal responsibility. On the contrary, it is possible, as we have previously learnt, to show another basis for the social security. It is the right of the society to the sources of wealth. On the basis of this, the State will be directly responsible apart from the obligatory support and maintenance by the Muslims themselves, for the livelihood of the needy and helpless.

We shall firstly talk about the State's direct responsibility of social security and its limits according to the legislative texts and then we will

talk about the theoretical basis in which the idea of this security is centered, that is, the right of the society to the natural wealth.

As for the direct responsibility of social security, the terms of this responsibility differ from the responsibility which the State exercises on the basis of the principle of reciprocal common responsibility because this does not impose upon the State the duty of the security of the individual's within the limits of his basic needs only but impose upon it the duty of securing to the individual's means of life in keeping with the standard of life the individuals in Islamic society are living, since here the security is a security of upkeep, and upkeep means affording an individual means in keeping with the standard of living and lending help to his maintenance of it. Here the term 'maintenance' is used in its popular senses, the implication of which, whenever the Muslim society's general standard of living increases comfort and ease, go with it. So, on this basis it is incumbent upon the State to satisfy an individual's basic needs such as: food, shelter and clothes, and its satisfaction of these needs will be on the side of kind and quantity in keeping with the standard of living according to the circumstances of the Muslim society. Likewise, it is incumbent upon the State to satisfy all the needs of an individual other than his basic needs, needs which enter into the Islamic sense of upkeep according to the extent of the elevation of the Islamic society's standard of living.

The legislative texts, pointing to the State's direct responsibility as to the social security are quite clear in their emphasis on this responsibility and on the fact that this security is a security of upkeep, that is, a security of affording the means of the upkeep to live upto the standard of individual members of the Islamic society are living.

There is a tradition reported on the authority of al-Imām Ja'far aṣ-Ṣādiq (a.s.) that: "The Messenger of Allāh (*s.a.w.a.*) used to say in his sermon 'Whosoever leaves behind him his loss, his loss is my responsibility and whosoever leaves debt behind him his debt is my responsibility and whosoever leaves his money it is his food.' "

In another tradition, it is stated that al-Imām Mūsā ibn Ja'far (a.s.) said, defaming what is due to him and what is due from him: "He is the heir of one who leaves no heir behind him, and he maintains one who has no means to maintain himself."

In a report of Mūsā ibn Bakr (it is stated) that al-Imām Mūsā (a.s.)

told him that one who seeks sustenance by lawful means in order to benefit himself and his family and children is *a mujāhid* in the cause of Allāh. Then, if he fails in that let him seek to borrow in the name of Allāh and His Messenger (*s.a.w.a.*) whatever he needs to feed his family and children. Then, if he dies without discharging his debt then it will be the responsibility of the Imām to discharge it. Then, if the Imām does not discharge it, upon him will be the burden of it. Allāh, the Mighty, the Glorious says: *The* ṣadaqah *are for the poor, the needy, those who work on* (collecting them) . . . (9:60); he is a beggar, a destitute, a debtor! [1]

It has come in a letter of al-Imām ʻAlī (a.s.) to the Governor of Egypt: "Thereafter for the sake of Allāh take care of those from among the poor and the needy, the miserable and the crippled who have no means to support themselves. They are a class of contended and courageous people. Allot for them a share out of your *baytu ʼl-māl* and a share of Islam's best crops from every city, for the farthest removed of them is like that which is for the nearest of them. You should surely call to your attention to the right of everyone of them, pride should not divert your attention from them. Indeed, you will not make lame excuse of loss of a trifle for your numerous important orders. Do not leave off your care of them nor turn away your face in disdain from them.

"Then from among them who cannot reach you, he from whom eyes are swiftly turned away, he whom people hold in contempt and whose matters you missed let you employ your trustworthy man of Godly fear and humility to devote themselves to such a one of them and let them

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[1] The Imām's quotation of this holy verse would not mean encompassing the Head of State's responsibility about maintenance and the disbursement (of it) with a specific source of *baytu 'l-māl's* (Public Treasury) revenue, namely, *zakāt.* This is because, the verse is not particularly for the *zakāt,* but lays down a general rule concerning *ṣadaqah of* all classes. The verse therefore includes the money which the State gives to the help-less and needy for it is also a variety *of ṣadaqah.* Add to this that it is not incumbent upon the Head of the State to spread out the *zakāt* to the eight categories mentioned in the verse under quotation, on the contrary, it is permissible for him to spend it over some of its categories along with the text of the tradition reported by Mūsā; ibn Bakr, affirms that if the Head of the State did not discharge the debt of the man, it will be a heavy burden upon him, and this is a special responsibility concerning security.

bring before you their matters, then act in respect of them in a way that it will constitute your plea to Allāh on the Day you will confront Him for these from among those under your rule and more in need of justice than others. Look after the orphans, and the one enfeebled by age who has neither the ability nor can toil for their own problems."

These texts enunciate quite clearly the principle of social security, expound the responsibility of the State for the maintenance of an individual and provide him with the means of its maintenance.

It is this principle of social security for the application and the pursuit of which in the Islamic society, the State is considered directly responsible.

As for the theoretical basis on which the idea of the security of this principle, the belief of Islam in the right of the society to the whole of the resources of wealths possibly constitute it for all these natural resources have been created for the society as a whole not for a group of people versus another group (. . . *Who created for you all that is in the earth,* 2:29). This right means that every individual of the society has a right to the benefit of the natural wealths and to an honourable life therefrom. So any one who is capable of working on any of the sectors for public or private, it will constitute a function of the State to afford him an opportunity. within the bounds of its ability, an opportunity of work, and he who cannot afford this opportunity of work or is unable to utilize the opportunity, then availing of the benefit of the natural wealths by providing him with the means of his upkeep to an honourable standard of life, will be the responsibility of the State.

So the State's direct responsibility in respect of social security rests upon the basis of the common right of the society to the natural wealths and constitutes a proof of the right of the such of the individuals of the society who are incapable of work.

As for the mode which the economic doctrine adopts to enabling the State affording security of this right and protection of it for the entire society including the disabled, it is the creation of some public sectors of Islamic economics. These sectors are fashioned from the resources of public and the State property in order that these sectors may constitute on the rank (footing) of *zakāt* – a security of the right of the weak, a barrier against the strong people's monopolization of the entire wealth, the State balance on hand assisting with expenditure for the carrying out of the

social security and affording every individual the right to an honourable means of living from the natural wealths. So, the basis in the light of this, is that it is the right of the entire society to benefit from the natural wealth.

And the idea (of social security) which rests upon this basis in the basis of the State's direct responsibility of affording to all the individuals of the society, the helpless and the destitute, security of the means for the maintenance of an adequate standard of honourable life.

While the doctrinal mode of the implementation of this idea is the mode of public sector which the Islamic economics has created, as a security for the full realization of all aims of this idea.

And the most striking legislative text about the declaration of the basis of all of the economic doctrinal content, the idea, the mode, is about the Qur'ānic intersection in *sūrat al-Ḥashr.* The relative verse of the *sūrah* specifies the function of *" fay' "* and its part in the Islamic society in its capacity of public sector. Here is the text:

> *What Allāh has granted to His Apostle as a* fay' *from them while you did not run a horse or camel, but Allāh gives His dominance over whom He wishes and Allāh is All-powerful. And what Allāh has granted His Apostle as a* fay' *from the property of the people of the town belongs to Allāh, to His Apostle, to his* (Apostle's) *family, to the orphans to the traveller, so that it may not be a thing taken by turns among the rich of you . . .* (59:7).

In this verse we find the declaration of the basis on which the idea of social security is established, that is, the basis of the right of the whole of the society to the wealth. *(So that it may not be a thing taken by turns among the rich of you.)* The verse explains the legislation of the public sector of the *fay'.* It fashions a mode of the security of this right. It forbids monopolization of the wealth by some people, it lays emphasis, the necessity of subjugating the public sector to the good and benefit of the orphans, the poor and the wayfarer in order that all the individuals of the society succeed in obtaining their right to enjoy the benefit of nature which Allāh has created for the use and service of man.[1]

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[1] There are some traditions which differ from that in the explanation of the verse, like the tradition which speaks of the revelation of the two verses in respect of two different subject matters. It speaks of the first

So the basis, the idea and the mode, all of them are obvious in this Qur'ānic light.

Some of the jurists like ash-Shaykh al-Ḥurr have given their legal opinion, that the State's vouchsafe of the social security is not particularly for the Muslims but even for *a dhimmī* (a non-Muslim subject) who lives under the protection and shelter of the Islamic State, grows old and is unable to earn his livelihood, will obtain the means of his maintenance from the *baytu 'l-māl* ash-Shaykh al-Ḥurr has quoted a tradition on the authority of al-Imām 'Alī (a.s.) that he passed by an old man who was begging where upon Amīr al-mu'minīn (a.s.) asked: "What is this?" He was told that the beggar was a Christian. The Imām said: "You sought to make use of him until when he grew old and is unable to work, you deny him his means of sustenance. Give him his maintenance money from the *baytu '1-māl.*"

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verse, that it is about the *fay'* and of the second verse that it is about the *ghanīmah* (booty) or about the *khums* of the *ghanīmah.* But these traditions are of weak authority as appeared from the following chain of narrators. It is, therefore, necessary for us to explain the two verses in the light of their appearance. The appearance of both of them in the talk is about one subject matter, that is about *fay'*. The first verse negates the right of the fighters to the *fay'* for it is what is acquired without fighting and the second verse specifies the place of the use of *fay',* that is, the directions in which the *fay'* is spent. Evidently, the poor, the wayfarers and the orphans being the object of spending the *fay'* does not negate its being a property of the Prophet or the Imam by virtue of his position, as the sound traditions have pointed out to that.

The sum and substance of those traditions after looking at the verse along with them amounts to this. The *fay'* is the property of the position which the Prophet or the Imām occupies, and the place in which it is incumbent upon him to spend the *fay'* is a thing which comes within the orbit of the two headings which are mentioned in the verse, namely, the interest that have to do with Allāh, the Prophet, his family, the poor, the wayfarer and the orphans. By the specification of the place of expenditure in accordance with the verse it is the generality of his statement. (He may put to use where he wishes) as is in the tradition of az-Zurārah. The Imām may put it to use wherever he may wish, within the orbit of the limits the holy verse specifies.

II- SOCIAL BALANCE

When treating of the matter of social balance, Islam proceeded from two truths, one cosmical, and the other doctrinal in order to formulate a principle of the State's economic policy for it.

As for the cosmical truth, it is the difference which exists between individual members of the human species as to their diverse mental intellectual and physical faculties and aptitudes. They differ as to their endurance and fortitude and their power of will and hope. They differ as to the keenness of their wit and the promptitude of their intuition and as to their ability of originality and invention. They differ as to the strength of their sinews and stamina of their nerves and such other sustenance of human personality.

These incompatibilities are not, in the opinion of Islam resultant from accidental occurrences of man's history as is presumed by fond lovers of the economic factor who attempt to find in it the final cause of every phenomenon of human history. The attempt at the explanation of these incompatibilities and differences on the basis of a particular social circumstances, or a specific economic factor is a mistake. If it were possible to explain a state or condition of a society in the light of it as a whole and it can be said that a feudal order of society a slave system was begotten of an economic factor, as the supporters of material explanation of history, then it will not constitute in any circumstance a sufficient

explanation of the appearance of those specific incompatibilities and differences between individuals unless the question as to why this man adopts the role of the slave, and that man the role of the lord, the master, or the question as to why that man happens to become keen-witted capable of creating new things and that man happens to become dull-witted, incapable of creating anything new, or the question as to why these two individuals interchange their respective role within the framework of a general order.

The answer to the question can only be made by assuming the individuals are diverse as to their specific endowments and their potentialities, before every social difference between them in the class order of the society; in order to explain the difference between individuals in the class order and the designation of every individual to a particular role in this order, on the basis of difference as regards their natural gifts and potentialities; so it will be a wrong statement to say that this man happens to be keen-witted because he occupies the role of the lord in the class order and that man dull-witted because he plays the role of the slave in that order, because in order that this man occupies the role of the slave and that man attains to the role of the lord, the existence of a differential between them to enable the lord to make the slave content with the distribution of the roles in the form is indispensable. Thus, we are led in the end to the positive conclusion of assigning the cause to the natural psychological factors whence the personal differences between individuals as regards their peculiarities and aptitudes.

Hence, the difference between individuals in an absolute truth and not the product of a social framework. So, it is neither possible for a realist theory to disregard it, nor for the social order to abolish it by legislation or by the process of an alteration of the nature of social relationship.

This is the first truth.

As for the second truth of the Islamic logic for the treatment of the matter of social balance, it is the (economic) doctrinal law of distribution that it is work which is the basis of private property and of whatsoever of rights to it. We have come across this law and we have studied every detail of its doctrinal contents in the discussions of it.

Now let us combine these two truths in order to know, how Islam proceeded from both of these two truths, for the sake of the treatment of the matter of social balance. Indulgence towards the appearance of the

difference in wealth is the outcome of Islam's belief in these two truths. Let us assume, for example, a group of people settle down on a land, develop it economically and grow on it as a society establishing their relationship with each other on the basis that work will be the sources of owner-ship and on the basis that none of them will practise any kind of the exploitation of the other ... We will then find after a while differing in respect of their wealth according to as regards their intellectual, spiritual and physical makings. These differences Islam admits because they are begotten of the two truths in both of which it believes at the same time and it sees no danger from such a difference coming into conflict with social balance. It is on this basis that Islam prescribes that the social balance should be understood in terms of the acknowledgement of these two truths.

From that Islam educes the statement to the effect that the social balance would be a balance of the standard of living and not in a balance of income among the individual members of the society; and the meaning of the standard is that the money should be present with and circulate among the people in a degree as would afford each individual member of the society a common standard of life, that is, every individual member of the society is afforded to enjoy living on a single standard of life with the preservation of the degree according to which means of living differ within a single standard of life. But it would be a difference of degree, of the standard of living and not a difference of contradictory standards of living like the vociferous contradictory standards existing in capitalist society.

This does not mean that Islam enjoins to create this state in a moment but appoints social balance of the standard of living an aim and objective which the State should strive best, within the bounds of the means at its disposal and its capacity, to implement and achieve it with different legal modes and methods within the means it enjoys.

Islam accomplishes this aim, by putting pressure, from above on higher standard of life with prohibition of extravagance and by putting pressure with the upliftment of the people living a lower standard of life from a lower to a higher standard of life. With that different standards are brought closer to each other till they are incorporated into a single standard. It does contain certain degrees of differences in standards but does not comprise of crying capitalist contradictory standards of living.

We have learnt that Islamic principle of social balance is based upon a minute examination of the Islamic texts – an examination which will make revelation concerning the belief of these texts in the social balance as an aim, also, concerning its giving the very content of this aim which we have expounded, as well as concerning their emphasis on the direction of the State as to the upliftment of the standard of life of the individuals of the society living on lower standard of life, to strive almost on an equal footing with one another.

It has come in the tradition that al-Imām Mūsā ibn Ja‘far (a.s.) mentions concerning specification of the responsibility of the Governor of the State as regards *zakāt*.

"The Governor should exact the *zakāt* and meet the purpose Allāh has directed him according to eight categories of the poor and the indigent. He should dispense it to them in their annuities of such amount as would render them dispense with their needs without difficulty and without dread. After that if there remains any left over as surplus, it will revert to the Governor. But if there is any shortage of it, and the amount of *zakāt* is insufficient to meet their needs then the Governor would make up the shortage by providing out of funds with him an amount which would do to render them dispense their needs."

This text specifies explicitly that the aim and objective which Islam tries to realize is to render every individual member of the society prosperous.

This is what we find from the words of ash-Shaybānī according to what has been narrated on his authority by ash-Shamsu 'd-Dīn as-Sarkhasī, in *al-Mabsūṭ*. He says: " A Governor should have fear of Allāh in spending monies of Allāh in their proper place. It is not for him to leave off a needy man without giving him his rightful share out of *ṣadaqah* as much amount as would suffice himself and his family. In case some Muslims are in need, and there is nothing left in *baytu 'l-māl* of *ṣadaqāt,* then the Governor should give out of the *kharaj* (land-tax) in *baytu'l-māl* what they are in need of. It will not constitute a debt on *ṣadaqāt* of *baytu 'l-māl,* because as explained by us, *kharaj* and whatever revenue comes within its meaning is for the use towards needs of the Muslims."

So, the prevalence of prosperity is the aim which the texts place before the Imām of the Head of the State. Now, in order to know the

Islamic conception of prosperity we should specify that also in the light of these texts. When we refer to them we will find that the texts have appointed an end limit of prosperity for giving *zakāt.* It has permitted giving *zakāt* to a poor till he becomes prosperous and forbidden giving it to him after that as has come in a report of tradition on the authority of al-Imām Ja'far aṣ-Ṣādiq (a.s.): "You may give to him *zakāt* till you make him prosperous." So the prosperity, the abundance of which Islam aims at for all the members of the society is the prosperity which is made a line of demarcation between giving and not giving of *zakāt.*

We should again refer to the texts and search for the nature of this line of demarcation between giving and not giving of the *zakāt,* to know the meaning of *"al-ghaniyy"* in Islam.

At this stage of deduction it is possible to make a discovery about the nature of that line in the light of the tradition of Abū Baṣīr in which it has come that: "he asked al-Imām Ja'far aṣ-Ṣādiq (a.s.) about a man having in his possession eight hundred dirham, the man, a shoe-maker, with a big family, as to whether it is valid for him to take any *zakāt."* The Imām replied : " O Abū Muḥammad! does he make any saving out of the dirham with which he maintains his family?" "Yes", replied Abū Muḥammad. "If he saves half of the amount with which he supports his family", said the Imām "then he should not take *zakāt.* But if it is less than half, then in that case he may take *zakāt.* And whatever amount of *zakāt* he takes he may contribute towards the upkeep of his family so as to join them (on level) with people."

In the light of this, prosperity of Islam would be a man's enjoying as much of the means of spending upon himself and his family as would join him to the common people and means of living his life coming to be, on an equal footing with the mutually recognized standard of life wherein there is no difficulty and no dread.

In this manner, we will come out from a chain of conceptions to Islam's conception concerning social balance and will know that when Islam formulated the principle of social balance and made the Head of the State (*waliyyu 'l-amr*) responsible to implement it by legal methods, expounded its idea concerning it and made it plain that it will be attained factually by the increase of prosperity of all the individuals. The *sharī'ah* has employed this conception of prosperity to fix a line of demarcation between the permissibility and impermissibility of *zakāt* and has

explained by other texts this line of demarcation as that degree of an individual person's prosperous circumstances of life which will join him with the people's standard of life. With that the tradition has given us the Islamic conception of prosperity which gives us the information concerning the principle of social balance, that it is directed towards the aim of the increase of prosperity of all the people and regards the prevalence of it as a basic condition of the realization of the social balance. In this manner will be completed in our brain a clear cut Islamic picture of the principle of social balance and we will know that the aim laid down for the Head of the State is the business of joining backward individuals with a higher standard of life in the direction which will make certain a general comfortable standard of life.

Just as Islam has formulated the principle of social balance it has taken upon its hand to furnish the State with the requisite powers in order that it may exercise them for the application of the principle of social balance in terms of these powers.

An essence of these powers can be given concerning the following matters:-

Firstly: Imposition of continuously recovering permanent taxes to expend them as regards the purpose of social balance.

Secondly: Obtaining the sectors of the State property and the State's turning to profitable investment of these sectors for the purpose of social balance.

Thirdly: The nature of Islamic legislative enactments which regulates diverse fields of economic life.

1. Imposition of Permanent Taxes:

These taxes are *zakāt* and *khums* These two fiscal duties were not planned for the sake of the satisfaction of basic needs only but also planned for the treatment of poverty and for the raising of the standard of life on which the poor live to the standard of the life which the rich pursue in order to realize the social balance as conceived by Islam.

The following texts are juridical proofs of these imports. Bearing to the objects and purposes of the social balance and the State's power and ability of the employment of them to that end.

a) On the authority of Isḥāq ibn 'Ammār. He says: "I asked al-

Imām Ja‘far aṣ-Ṣādiq (a.s.) if I may give a man one hundred dīnār out of the amount of *zakāt* due from me. The Imām said: ‘Yes.’ I then asked: ‘Two hundred.’ He said: ‘Yes.’ I asked: ‘Three hundred.’ He said: ‘Yes.’ I asked: ‘Four hundred.’ He said: ‘Yes.’ I asked: ‘Five hundred.’ He said: ‘Yes,’ . till he becomes self-sufficient.’ “

b) On the authority of ‘Abdu ’r-Raḥmān ibn Ḥajjāj. He said: “I asked al-Imām Mūsā ibn Ja‘far (a.s.) about a man whose father, uncle and brother used to supply with provisions to meet his needs, as to whether, in case they were not able to supply all the things, can he take *zakāt* and enable himself to meet his needs?” The Imām replied:” There is no objection.”

c) On the authority of Samā‘ah. He says: “I asked al-Imām Ja‘far ibn Muḥammad (a.s.), ‘is taking of *zakāt* valid for a person possessing a house and a servant?’ The Imām replied: ‘Yes’.”

d) It is reported by Abū Baṣīr speaking about a person on whom *zakāt* is obligatory but he is not well off in life. The Imām said: “He must be helped in feeding and clothing of his family and children; he may retain something from it and give it to other and he may share with his children whatever of the *zakāt* he takes till he joins them to the people (as to the standard of life).”

e) On the authority of Isḥāq ibn ‘Ammār, he said,” I asked al-Imām Ja‘far aṣ-Ṣādiq (a.s.): ‘May I give to a man eighty dirham from *zakāt* ? ’ He said: ‘Yes, and give him even more. ’ I said: ‘May I give him one hundred?’ He said:[1] ‘Yes, and make him self-sufficient if you can do so.’ “

f) On the authority of Mu‘āwiyah ibn Wahab, he said, “I asked al-Imām Ja‘far aṣ-Ṣādiq (a.s.): ‘It is narrated on the authority of the Prophet that giving of *sadaqah* to the well-to-do is not valid, nor equally to persons of good means.’ The Imām said: ‘Yes, it is not valid for the well-to-do people.’ “

g) On the authority of Abū Baṣīr, he said, “I asked al-Imām Ja‘far aṣ-Ṣādiq (a.s.): ‘An old man from among our companion, called ‘Umar, a needy man, begged ‘Īsā ibn A‘yan for something. ‘Īsā ibn A‘yan told

[1] It may be remarked here that the purchasing power of the dirhams in the days of these texts was greater than the purchasing power of the currency coins to which we apply in these days that name.

him, "I have *zakāt* money with me, but I will not give you anything from it, for I saw you purchasing meat and dates." ʿUmar told him: "I gained only one dirham out of two *danīqs* therefrom. I purchased meat and with two *danīqs,* I purchased dates and was left with two *danīqs* for my need . . ." ' (The narration reports that when the Imām heard this story of 'Umar and 'Īsā ibn A'yan, he put his hands on his forehead for a while, then lifted his head) and said: 'Allāh the Supreme has looked into the monies of the rich. Thereafter, he has looked into the State of the poor and then fixed *zakāt* (poor-tax) such sum of the monies of the self-sufficient as they would be satisfied with and if that were not to suffice them, make it more for them. Nay! a self-sufficient men should give a poor men such sum of money as would enable him to eat, drink, cloth himself, marry, give *ṣadaqah* and perform the *ḥajj.' "*[1]

h) On the authority of Ḥammād ibn 'Īsā: That al-Imām Mūsā ibn Ja'far (a.s.) said, while he was speaking about the share of the orphans, the needy (*miskīn*) and the wayfarer in the *khums* – the governor shall dispense it among them according to the Book (al-Qur'ān) and the *sunnah* such amount annuities as would enable them to dispense with their needs. After that if there is any surplus left, it will belong to the governor. However, in case he is unable or the *khums* falls short of sufficing them for their yearly needs, then he is liable to give them, out of the money he has with him, such amount as would render them self-sufficient.

These texts enjoin giving as much out of *zakāt* and such other money, as would enable an individual to join to the standard of the people or as far as he would enable him to become self-sufficient or according to different wordings which occur in the texts giving to them such amount as would be sufficient for their primary and secondary requirement such as: food, drink, clothing, marriage, *ṣadaqah* and *ḥajj.* Every one of these are directed to one subject, the bringing about of the prevalence of self-sufficiency according to Islamic conception of it at all levels of living

[1] The preferred opinion concerning the understanding of these texts is that they are directed to the aim of allowing the dispensation of *zakāt* in terms they assign to a man in his capacity of a poor man not on the basis of the application of the categories of persons in giving it in the way of Allāh and to that we can give the Islamic conception of a poor man.

standards.

In the light of this, we can limit generally the conception of self-sufficiency and poverty according to Islam. According to it *a faqīr* (poor) is one who has not his satisfaction of his requisite and supernumerary wants as far as the wealth of the country would allow him; in other words, one who lives at a standard, the deep chasms of which separates him from the standard of the well-to-do individuals of Islamic society, and the self-sufficient (the rich) is he whose living standard such a chasm neither separates him from it nor makes, satisfaction of his requisite and supernumerary wants proportionate to the wealth and the material advancement of the country, difficult for him irrespective as to whether he possesses great wealth or not.

From this, we learn that Islam has not accorded an absolute sense and fixed implication to all cases and circumstances of poverty. For instance, it cannot be held that inability of satisfying simple basic need constitutes poverty. But it has rendered manner of living not of reaching upto the living standard of people a meaning of poverty and the actual purport of poverty will be enlarged commensurate with what raises the standard of living, for, in such a case, lagging behind the pace of this rise of the standard of living would constitute poverty, if, for instance, people are accustomed to have an independent house of their own as a result of the expansion of civilization and the flourishing condition of the country a family's not having an independent house of their own in that country would constitute a kind of poverty while in a country which has not reached such a standard of ease and comfort of life, a family's want of an independent house of its own would not constitute to be poverty.

This elasticity of the implication of conception of poverty has a bearing on the idea of social balance, since if it were to offer, instead of that, an invariably fixed import of poverty, an inability as to the satisfaction of simple basic needs, and to make treatment of fixed implication of poverty function of *zakāt,* etc. the act of the creation of the social balance through it would not be possible nor it would be able to bridge the chasm between the living standard of the beneficiaries of *zakāt* and the general living standard of the self-sufficient people which goes on marching forward, slowly and rising continuously following changes in civic life and the overall increase of wealth of the country. So, the rendering of the elastic implication of poverty and self-sufficiency

and placing the institution of *zakāt,* etc., on the basis of this elastic implication with the power of the employment of *zakāt,* etc., is guarantee for the good of the general social balance.

Offering an elastic import is neither extraneous to a purport with which the prescription of the law is connected such as elastic import of poverty, to which *zakāt* is linked nor will this mean alteration of the prescription of the law, but will mean an alteration in the presently existing meaning of this implication.

The science of medicine is an illustrative example of it. Law has ordained learning of medicine as *'kifāyah'* duty of the Muslims. This duty is a permanent ordinance connected with a specific import, namely medicine. But what is the import of medicine? What does learning of medicine mean? Learning of medicine means, a study of special information which fulfils, in any circumstance, the condition as regards knowledge of disease and the method of their treatment. These special information will increase with the passage of time in accordance with the evolution of knowledge and the perfection of experience. Then those information which constituted special information yesterday will not be deemed special information today and it will not be sufficient for a physician of today that he has mastered what the expert physician of the age of the prophethood knew to constitute in compliance with the ordinance of Allāh in regard to medicine. Hence, the elasticity of the import of medicine is not a change of the ordinance of law and if the physician of today is different from a physician of the age of the prophethood, then, it is reasonable for the import (implied sense) of poor man today also, to be different from the import of a poor men of the age of the prophethood.

2. Creation of Public Sectors:

Islam has not been content with permanent taxes which it has planned for the seeking of the creation of the social balance but has rendered the State responsible for the disbursement of public sector towards this object. It has come in the tradition on the authority of al-Imām Mūsā Kāẓim (a.s.) that the Governor, in case of the insufficiency of *zakāt is* liable to provide them out of what he has with him as much as would do them till they become self-sufficient.

The phrase ‘out of ’ what he has with him, proves that he can employ sources of *baytu ’l--māl* (public treasury) other than *zakāt* towards the cause of the creation of the social balance by the enriching of the poor and the raising of standard of their living.

The glorious Qur’ān has expounded the part of *fay’* which is one of the sources of the revenue of the *baytu ’l-māl.* It says: *What Allāh has bestowed upon His Messenger by way of* fay’ *from the towns’ people belongs to Him, to His Messenger, to the kinsmen, to the orphans, to the needy and to the wayfarer, so that circulation of wealth may not become confined in the hands of the wealthy amongst them.* (59:7)

We have already learnt that this sacred verse speaks about the object of the use of *fay’* and puts the orphans, the needy and the wayfarer on a rank with Allāh, His Messenger and the kinsmen. This means that the *fay’ is* provided for disbursement of a part of it on the poor just as it is provided for a disbursement of a part of it upon the common good connected with Allāh and His Messenger. The verse clearly indicates that the provision of *fay’* for the disbursement of a part of it upon the poor has for its aim rendering the money to be in common use and to be found in possession of all individuals of the society and not be circulating among the wealthy, especially to safeguard the common social balance.

Fay’ constitutes, in fact, what the Muslims have acquired by way of booty from the unbelievers without fighting. It constitutes a State property, that is, it belongs to the Prophet or the Imām in consideration of their position. Therefore, *fay’ is* regarded as a class of *anfāl* (booty – spoils of war). They are the properties which Allāh has rendered the property of the Prophet and the Imām in consideration of their position, such as waste lands or mines according to a saying.

The term *fay’ is* generally applied in legal technical terms to *anfāl* on the evidence of what is stated in the tradition. of Muḥammad ibn Muslim on the authority of al-Imām al-Bāqir (a.s.). He says: *“Fay’* and *anfāl* constitute of a land in the acquirement of which there has been no bloodshed or whatever of the land has been acquired from a people that has made peace or what has been given with their own hand as well as the neglected waste lands, and the bowels of the earth (mines). All these constitute *fay’* . . . . This text makes clear about the application of the terms *fay’* to whatever of the other kinds of properties Muslims have come into possession by way of *anfāl* (spoil of war) and in the light of

this legal technical term will not be made special for booty obtained without fight to be an expression as regards all the sectors which come into possession ex-officio of the Prophet or the Imām as administrators.[1]

On this basis, we can conclude that the verse has confirmed the order of *anfāl* in a general form under the name *fay'* and by this we learn that in the *sharī'ah, anfāl* is used to safeguard the balance and responsible of the circulation of the wealth among all, as it is used for the common good.

3. Nature of Islamic Legislation:

Thereafter, social balance in the Islamic society is indebted to the collection of Islamic juristic regulations in different fields for which are divided in the State application for the safeguard of the balance.

We cannot take up here the collection of all the juristic regulations having their bearing on social balance and show the relationship between it and them. But we can adequately refer to Islam's campaign against hoarding of cash wealth, abolishing usury, enactment of the laws of inheritance, bestowal of powers upon the State concerning abandoned lands withholding of the usufruct of the wealth for raw materials and so forth.

Now, Islam's ban on hoarding and the abolishment of usury penalizes the role of the capitalist banking houses in creating disparity of social stratum and disturbance of social balance and deprive them of their power of prowling after the lion's share of the country's wealth, a business which they manage through the encouragement to hoarding and the enticement to interest of the common people.

So, from the Islamic stand will result, of course, most likely the disability of the individual (private) capital's capacity of the expansion of the fields of productive operation and commerce. Now, as the individual's capacity expansion of industrial and commercial projects in countries like capitalist countries depends upon the capitalist banking houses which help them as to their needs of finance with loans at a certain rate of interest. So, when hoarding is banned and the taking of

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1 We must add to that, that this verse, according to common under-standing, is general and not particular.

interest is made unlawful by statute law, it will neither be possible for the banking houses to keeping up money in their treasuries, in the shape of huge piles nor to help individual enterprises with loans. Hence, the private activities will keep within reasonable bounds in keeping with general balance and leave, naturally, the working of big projects to public properties.

The enactment of the laws of inheritance, according to which the property left by the deceased will most likely be distributed among a number of heirs, his kinsmen, is another security of social balance, since the distribution of such properties among the deceased's kinsmen accordingly as laid down in these laws will lead to the continuous breaking up of these properties and will act as a check on their accumulation. So, at the end of every generation the collective number of the new heirs will most likely reach double the collective number of their erstwhile owners.

The powers conferred upon the State for filling up the zone of lacuna left in the statute laws is also a security for the social balance as we shall find in our coming talk.

Likewise, the abolishment of the productive development of the natural raw wealths, which represents the position of the starting point for the economic activity, leads to social balance since it is the employment of the natural wealth which is the main starting point of economic activity.

Now, immediacy were posed (laid down) as a condition for the acquiring of the ownership of raw wealth obtained from nature, as opined by some jurists, and exploitation of others to that purpose be banned, the distributions of these wealth will have already been sharpened to the shape confirming social balance and a small number of persons would have been disallowed to exploit to service in this sphere, a matter which casts seeds of contradiction and disturbance and blast the social balance at the very beginning.

* * * * *

THE PRINCIPLE OF THE STATE'S INTERVENTION

The all comprehensive and universally general power and authority which are given to the State for intervention in economic life of the community will be deemed one of the fundamentally important principles of Islamic economic system.

The State's intervention is restricted to the mere adaptation of static (permanently fixed) dicta of the statutory laws of Islam but extends to the filling of the zone of the lacuna in the Islam's statute laws, for on the one side it intervenes to urge upon the community adaptation of the static elements of the statute laws, on the other side it devises the dynamic elements, as regards the Islamic legislation, according to circumstances.

In the practical sphere, the State will intervene in economic life to guarantee the adaptation of those dicta of Islamic law which are connected with the economic life of the individual persons, for instance, it puts a check upon people's transacting business with interest (usury) or acquiring authority over land without reclaiming it. Likewise, it carries out itself the dicta with which it is directly concerned, for instance, it implements the principle of social security and general social balance in accordance with the way Islam has permitted for the realization of those principles.

In the legislative sphere, the State will intervene to fill up the lacuna zone (gap) which the Islamic enactment of laws has left to it so that it fill up according to changing circumstances in the form which will guarantee the general aims of Islamic system of economy and will realize the Islamic picture (shape) of social justice.

At the very early part of our discussion we have referred to this lacuna zone and have learnt that the study and examination of it is necessary during the process of discovery since it enters into the picture we are seeking to discover as the picture's dynamic element which gives it the ability as to the performance of its mission and the union of its life on the practical and theoretical plane, in diverse ages.

Why was Lacuna Kept?:

The idea of this zone of lacuna stands on the basis that Islam does not offer its principle of legislative enactment of the laws of economic life as a fixed treatment or a phase (stage by stage) system which history transmits it through interval of ages, from forms to forms to a last and final form of the system. But offers it as a theoretical form suitable for all ages. It is, therefore, essentially necessary to give this form completeness and comprehensiveness wherein to reflect changes of ages, inside the dynamic element, assisting the form with capacity to adaptation in accordance with diverse circumstances.

To take up the details of this idea, it is necessary for us to determine the changing aspect of the economic man's life and the extent of his influence in the form of the legislative enactment which regulates that life.

Now, here in the economic life there are man's relationship with nature – the wealth – which are exemplified in his mode of their production, and his control over them (the modes and man's relations) with man, his brother which are reflected in the rights and privileges which this or that man has acquired.

The differentia between these two kinds of relationships the first kind of the relation which man pursues irrespective of whether he lives in society or apart from it. In other case, he is entangled with nature in a clearly defined relationship limited to his experience and knowledge. He chases the birds, tills the land, extracts the coal and spins the wool with

modes at which he is good. The establishment of these relationships between man and nature does not depend by their nature on man's existence inside society but society influences these relationships. It leads to pooling together of various experiences and information and to the growth of the human level of acquaintance with nature and the man's capacity of needs and desires.

As for man's relationships with man,. which are determined by rights and privileges and obligations depend by their nature upon man's existence inside a society. So, unless a man does not live in society, he does not proceed towards fixing his rights and his duties. The right of a man to the land he reclaims to productive use, and depriving of him of the right of acquiring gain through interest (usury) or compelling of him to allow others for the satisfaction of their requirement of water from a well he has opened up, if there is any surplus after meeting his requirements, all these relationship have no meaning except under the umbrella of the society.

Islam, as we picture (conceive) it, distinguishes between these two species (classes, categories) of relationship. It is of the opinion that the relationship which holds between man and nature or natural wealth change with the passage of time, following from the problem which man confronts continuously, in the course of his pursuit of nature and the variegated solutions by which he gains mastery over these problems. As often as changes his relationship with nature increases his control over it and his power as to his means and modes increase.

As for man's relations with his brother, they are by their nature unchangeable for they treat the problems essential and permanent, no matter what disagreement there may be as to their frame and their external appearance. Every society which, in the course of its relationship with nature, gains control over its wealth, will be confronted with the problem of its distribution and determination of the rights of the individuals and society in respect of equality when its operation of production is at the steam level and electricity or at the level of hand-mill.

On account of this, Islam considers that the laws which regulate these relations in conformity with social justice, are from theoretical side capable of duration and permanency for they treat permanent problems as the law enacting principle which says, for instance, that the special right

to the resources of nature is established upon the basis of labour, treats of the general problem which is alike and same in the age of the simple plough and in the age of complicated tools because the method of the distribution is a standing problem of both the ages.

Islam disagrees as to this with Marxism which believes doctrinally that man's relation with man, his brother changes in accordance with the change of his relation with nature and links the form of distribution with the mode of production. It refuses the possibility of the discussion of the problems of the society except in the frame of its relationship with nature as we have come across to our presentation of it and our criticism of it in the first volume of the present book (*Iqtiṣādunā*).

It is, therefore, but natural, on this basis, for Islam to offer its principle of theory and law which is, as such, capable of regulating the relationships of man with man in diverse ages. But this will not mean a point for omission of proper attention to the changing side, that is, the relationship of man with nature and cast it out of reckoning. Since as much as the development of man's power over nature and the growth of his control on its wealth will elaborate or become bigger or more systematic, so much man's danger to society will go on increasing and it will place at his service and disposal new possibilities for expansion and for the destruction of the form adopted for the social justice.

For instance, the juridical principle, which says that the man who expends earnest and hard labour on a piece of land till it is made fit for productive use for renewed cultivation is more en-titled to have it than any other person is considered in the eye of Islam a just principle because it is an injustice to put on an equal footing the worker who expends his efforts on a piece of land and another man who has done no labour on it. But this principle with man's power over nature and its development becoming collaborate fuller and more systematic may become his power of its exploration. During the period when a piece of land was cultivated by antiquated modes, it was not feasible for a man to manage on cultivating operation except on small spaces. But after the growth of man's ability and power and the abundance with him of the means for husbanding nature to his control, it became possible for a small number of individuals – those of them to whom the opportunity was offered – to put to cultivation huge pieces of the open spaces of the land and to subjugate them to their control with the employment of big tools and

heavy machinery, a thing which shakes violently to foundation of social justice and upsets the work for the good of the society, so there must be a juridical form in respect of the zone of lacuna, which is able to fill it according to circumstances, so that a general per-mission is given for the cultivation of the land in the first period and individuals in the second age are forbidden performing of cultivation operation except within limits commensurate with the aims of Islamic economy and its ideas of social justice.

It is on this basis that Islam has composed the zone of lacuna in the juridical form by which the economic life is regulated in order to reflect and keep pace with the dynamic element, the change of relationship between man and nature.

Lacuna not a Defect:

The gap or zone of lacuna is not indicative of defect or deficiency of the juridical form or omission of giving proper attention to some actually existing things and occurrences. On the contrary, it expresses the comprehensibility of the form and the power of the law to keep in pace with diverse ages because the *sharī'ah* has not left the zone of lacuna in a form which would mean lack of proper attention or a deficiency but has specified its prescriptions for the zone of lacuna by giving every occurrence its primary juridical property along with conferring upon the Head of the State the power to give it a secondary juridical property according to circumstances. For instance, the cultivation of a land by an individual is by its nature, an operation legally permissible and the Head of the State has the right to forbid the carrying out of it according to exigencies of time and circumstances.

The Juridical (Statutory) Proof:

The following verse of the holy Qur'ān is the proof of the conferring such a capacity of filling the zone of lacuna. *O you who believe! Obey Allāh, obey the Messenger and those in authority from among you* (4:59).

The limits of the zone of the lacuna to which the capacities of the Head of the State is enlarged include in the light of this verse every act

which in its nature is legally permissible. So that any activity about which a legal text does not occur indicating its unlawfulness or obligatory and the Head of the State is permitted to give a secondary property by forbidding or enjoining it. So, when the Imām forbids a permissible by its nature, it becomes unlawful and when he enjoins it, it becomes obligatory. As for the acts the unlawfulness of which is established by law in general, for instance, interest (usury) the *waliyyu 'l-amr* had no right to enjoin it, or likewise, if the law of the *sharī'ah* has ordered and act as obligatory, for instance, as the alimony of wife is obligatory upon the husband, the *waliyyu 'l-amr* has no authority to forbid it, because obedience to the *waliyyu 'l-amr* is taken to be granted to be within limits which do not conflict with obedience to Allāh and His general commandments, so it is the class of action which is in their nature *'mubāḥ'* (permissible, approved) in the economic life which composes the zone of the lacuna.

Illustrative Examples:

In the transmitted texts of the tradition, there are numerous illustrative examples, of the *waliyyu 'l-amr's* exercise of his powers in terms of the zone of the lacuna. These illustrative examples throw light on the nature of the zone, and the importance of its positive role as to the regulation of the economic life on the Islamic society. We, therefore, offer in what follows a portion of those illustrations, supporting with the texts, the light they throw and the positive role they play:-

a) It has come in the text that the Prophet prohibited the surplus of water and fodder. It is stated on the authority of al-Imām Ja'far aṣ-Ṣādiq (a.s.) that he said: "The Messenger of Allāh (*s.a.w.a.*) gave an executive order among the people of Medina in respect of watering of palm-groves, that the surplus of water and fodder shall not be forbidden." This prohibition is a prohibition of *ḥarām* (unlawfulness) as required by usage when we add up to it the opinion of multitude of the jurists to the effect that forbidding of a man to another man a part of the surplus water and fodder which he possesses is not one of the original unlawful things of the statutory laws like the forbidding to a wife her alimony, the drinking of the intoxicants, we can adduce that the interdiction issued by the Prophet in his capacity of *waliyyu 'l-amr*

It was the exercise of his capacity of finding the zone of the lacuna according to the circumstances. The society of Medina (city) was in great need of increasing their animals and farms products, so the State imposed upon individuals to give the surplus from their water and fodder to others for promoting the animals and farm wealth .

Thus, we see that giving of surplus water and fodder is a *mubāḥ* (permissible, approved) act and the State imposes it as an obligatory duty (*taklīf*) for the implementation of the good (in general) which was essential for it.

b) An interdiction of the Prophet against the sell of fruits before they are rupe occurs in the tradition about it on the authority of al-Imām Ja'far aṣ-Ṣādiq (a.s.), that the question was asked to the Imām about a man selling named fruits of a land and all the fruits getting destroyed. The Imām replied: "A dispute like that between people was carried to the Messenger of Allāh (*s.a.w.a.*). They used to mention it. When he saw that they did not give up quarrelling, he interdicted the sale of fruits till they were ripe. However, he did not make sale of unripe fruits unlawful but interdicted it on account of their quarrelling."

In another tradition, the Messenger of Allāh (*s.a.w.a.*) is stated to have declared: "The sale of unripe fruits is lawful, but when it leads to dispute and disagreement no buying or selling of the fruits is allowed until they are ripe."

Now, the sale of the fruits before they are seem good is a permissible act in its nature, and is commonly permitted. But the Prophet interdicted it in his capacity as *waliyyu 'l-amr* this sale to ward off the mischiefs and oppositions resulting from it.

c) at-Tirmidhī reports on the authority of Rāfi' ibn Khudayj that he said: "The Messenger of Allāh (*s.a.w.a.*) interdicted us from indulging in an act which was profitable for us, that is, if we happened to have a piece of land to give in the consideration for a part of the land-tax (*kharaj*) or for dirham." He, also, told us: "When anyone of you possesses a piece of land, let him bestow it upon his brother to cultivate it or let himself cultivate it."

Now, when we put together the case of this interdiction and the agreement of the jurists on the validity of giving land on rent in the code of the Islamic law in general and add to it the numerous traditions cited on the authority of the companions indicating the permissibility of giving

the land on rent we would adduce a clearly defined explanation of the text occurring in the tradition reported on the authority of Rāfi‘ ibn Khudayj. It is that the interdiction was issued by the Prophet in his capacity as the *waliyyu ’l-amr* and not as a common legal dictum.

So, hiring out at rent of a piece of land is one of the *mubāḥ* in its nature which the Prophet can forbid as an imposed inter-diction in his capacity as the *waliyyu ’l-amr* conformably to the exigencies of the situation.

d) During the rule of al-Imām ‘Alī (a.s.) came to Mālik al-Ashtar strong orders urging upon him to fix the limits of prices conformably to the justifiable requirements. He has talked to his governor about merchants, has committed them to his care then followed it with the observation: “And know with that – that there are many who are excessively narrow hearted and abominable miser, profiteers, arbitrary in their buying and selling transactions. That is a category of harmful person to the common people and blameworthy for a governor, so forbid them from hoarding. In fact, the Messenger of Allāh (*s.a.w.a.*) has prohibited from indulging in it. And let buying transaction be a magnanimous transaction by the scales of justice and let prices be not arbitrary to either buying party or selling party.”

It is juristically clear that it is permissible for the buyer to sell his commodity at any price he likes. The Islamic code of law (*sharī‘ah*), does not prevent by a general interdiction on the owner selling his commodity at an unfair price. Now, the order of the Imām by putting a limit on the price of a commodity and preventing the merchant from his selling it at a higher price was issued by him in his capacity as the Head of the State was by virtue of a use (an exercise) of his power and authority about filling the zone of the lacuna in consonance with the exigencies of the social justice which Islam has adopted.

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APPENDICES

- 1 -

EXAMINATION OF THE EXCEPTIONS TO THE MUSLIM'S OWNERSHIP OF THE CONQUEST LANDS

The Rule of the Cultivated Land After the Enactment of the Law of *Anfāl* (Peacefully obtained Booties):

Among the jurists' circles there exist an opinion which discriminates between two types of cultivated lands acquired in case of conquest.

One, the land, the cultivation of which, by the unbelievers was being done before the enactment of the law of the Imām ownership of *anfāl* including dead lands as when the land has been a cultivated land ever since the pre-Islamic pagan times.

The other, the land, acquired in case of conquest, cultivation of which stems from a time later in date than the enactment of that law, as when the Muslims conquered it in the fiftieth year of the *hijrah* (672 A.D.), and its cultivation began after the revelation of the Chapter 'The Angels', or after the death of the Prophet. For example, the first category of land at the time of conquest by the Muslims is the public property, while the second category is not owned by the Muslims is the property of the Imām alone.

The jurist research scholar, the author of the book *al-Jawāhir,* on discussion of *khums* in his book, states: "By application of the companions and the traditions designation of the Muslims' owner-ship of forcibly conquered land is meant a dead land which unbelievers had reclaimed before Allāh made over *anfāl* as gift to His Prophet; and if not, it also belongs to him, even if it was in a cultivated state at the time of the conquest." However, the jurist scholar opposes that view on discussions of reclamation of dead lands in his (same) book.

The foregoing admission of the two points is the reason of making juristically the distinction between the two types of cultivated lands acquired in case of conquest. These two points are as follows:-

a) After the legislation of *anfāl* an unbeliever will not become the owner of a dead land by reclamation, because according to this legislation, the land will be the property of the Imam; and the Imām would not agree to an unbeliever's rehabilitation so that he may become the owner of the land he rehabilitates.

b) The Muslims will legally seize, on conquest, as booties and take possession of only the properties of the unbelievers, not the properties of the Imam which are in the latter's possession and control.

From this, it may be deduced that a dead land which an unbeliever rehabilitates after the enactment of the law of *anfāl,* will be the property of the Imām and the unbeliever will not be its owner by rehabilitation, as the first point establishes. Therefore, when the Muslims would conquer it, they would not become its masters, because it is not a property of an unbeliever but a property of the Imām. They become the owner of only what they seize as booties from the unbelievers, as in the above-mentioned second point.

This opinion which aims at making distinction between these two types needs some clarification, because when we examine the legislative texts which award to the Muslims the properties, including land which they have taken from the unbelievers by the sword we find ourselves between two hypotheses. One hypothesis is that, properties gained by conquest awarded to Muslims may, according to these texts, be taken to be every property which was a possession or a phase of right to possession of it in the past, of an unbeliever; and the second hypothesis, every property seized by conquest from under the possession and control of an unbeliever, regardless of the nature of the legal relationship of the

unbeliever with the property.

Therefore, on the first hypothesis to understand these texts it is necessary – in order to grant their application to the property of the war spoils – to prove, in advance, that this property was (formerly) the property or right of the unbeliever, then Muslims have taken possession of the same by conquest.

Contrary to the first point, which denied the right of an unbeliever to whatever dead land he rehabilitates, after the enactment of the law of *anfāl* we hold the opinion, that an unbeliever's rehabilitation of a waste land appoints as a heir to the right to it like a Muslim, even if the property right to it be that of the Imām, in accordance with the text which says: "He who rehabilitates a land is more entitled without any distinction between Muslim and non-Muslim."

In this light, Muslim's conquest of a land will constitute a ground for the transfer of this right from the unbeliever to the community while proprietary right of the land will remain to be that of the Imām and there will be no conflict between the two.

However, if we choose the second hypothesis, for the explanation of the texts about *'ghanīmah'* properties, these texts will be inclusive of land which the Muslims seize as booties from an unbeliever, even if they be not the properties of an unbeliever or to which he holds a right before the conquest, because the basis of the Muslims right of possession is abroad, in this light, is the seizure of the property from under the possession and control of an unbeliever and this is what was received.

This will lead us to the confrontation of the conflict between the application of the texts regarding *'ghanīmah'* and the application of the evidence of the Imām's ownership, because the land which an unbeliever had rehabilitated after the enactment of the law of *anfāl* and the Muslims had conquered it, thereafter, will be considered subsumed as a land seized from an unbeliever by conquest, under the texts regarding the *'ghanīmah'* and consequently a common property of the Muslims, while it will be considered subsumed as a waste land at the time of the enactment of the law of *anfāl,* under the evidence of the Imām's ownership of a waste land, and consequently his property.

In cases such as there, it is juristically necessary to determine with precision to what extent the meaning of the texts suffer conflict in order to stay adoption of the issue of the conflict along with the embracement

of the rest of the parts of the meaning.

When we take into consideration the conflict here, we find *'lām (ل)'* in their statement is its point of concentration, that is, the *'lām'* in the statement that every waste land belongs to the Imām and in their statement every land taken by sword belongs to the Muslims. Now, *'lām'* does not indicate ownership, by its nature but a special right. It includes ownership by application. This means that the conflict is between the two *lāms* because they indicate two different possessions. So the two applications are cancelled and the root meaning of the jurisdiction remains established since there is no objection to the supposition of the two jurisdictions of the land which an unbeliever has rehabilitated after the enactment of the law of *anfāl* and the Muslims' conquest of it thereafter.

One of the jurisdictions of the Imām's jurisdiction at the level of ownership and the other is the Muslims jurisdiction at the level of (public) right.[1]

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1 In other words, the conflict is not, in fact, between allowing the general application of the caption *'ghanīmah'* because of the texts Muslim's ownership and the application of the caption 'waste-land' because of the texts permitting the ownership of the Imām in order to determine the obligation of removing the element of conflict, that is, the land about which we are speaking, either from the former texts directly or from the latter texts likewise. But the conflict is, in fact, between the application of the *'lām'* in all these texts because it is these two applications which lead to the joining of two properties in one single owned property, and the rule of conflict demands gradual cancellation to that extent and to no more than that. So, the application of the *'lām'* giving the meaning of ownership will be cancelled from either of the groups of the texts and the root meaning of the '*lām'* indicating special right will remain. In that case, we will establish the Muslim's right of the land about which the element of conflict occurs by the very *'lām'* in the texts of *'ghanīmah',* because to this extent there is no contradiction. And we will establish the Imām's right on the land as the right of ownership by the above totally showing that the entire land belongs to the Imām because after the cancellation of the two specifies will be had to the total will be reference. Indeed, it may be believed contrary to what we have stated that the presentation

By this, we arrive at the same conclusion we arrived at, on the basis of the first hypothesis.

Is *Khums* Excluded From Conquered Land?

The thing which remains for us to know is whether obligation of the *khums is* included from conquered land or is adjudged entirely to the property of the Muslims without the exception of the *khums*.

Perhaps, a majority of the jurists hold the view of affirmation, in adherence to the applications of the textual evidence of the *khums* which demands inclusion of the immovable also.

Contrary to this, a group of the jurists hold to the negation of the *khums* on the claim that the applications of evidence of *ghanīmah* must be excluded from it, in view of the evidence of the application of the evidence of the Muslim's ownership of the conquered land which demands negation of *khums* in respect of it.

Ascertainment: The intended object of the supporters of the view of the negation of *khums* of the conquered land adhering to the application of the evidence of the Muslim's ownership of it, may be either that of giving preference of this evidence to the application of the evidence of

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of the proof of the ownership of the Imām is the determined when there arises conflict between the two groups of the texts, because the comprehension (taking of the whole) in some of its text is given with the article of generality such as, in its statement (''Every dead land belongs to the Imām") against the tradition of the *kharaj*-land for their meaning is, the comprehension of the whole in general.

The reply to it is that the application of the traditions of *kharaj*-land does not conflict with the individual generality in its statement, every dead land, but conflicts with its temporal application to what is after the conquest, in the sense that the conquered cultivated land at the time of conquest was an inner part of the proof of the Imām's property without contradiction. Therefore, the side of the contradiction is, the temporal application because of the proof of the Imām's property, not the individual generality, which is declarative and even to the extent of temporal application I have informed that the reference of its two sides of the contradiction of the contraction is precisely to the *lām's'* application being a side of the contradiction. Therefore, if the inexistence of the application of *'lām',* which indicates ownership, were assumed, there will remain no contradiction, neither of individual generality nor in spite of the temporal application.

one-fifth of the *ghanīmah,* or it may be that of merely the projecting of the confliction between the two applications of the two evidences and to be content with the dropping of cancellation of the negation of the proof of *khums*.

If the first is intended then it depends upon an evidence of the Muslim's ownership of the conquered land being more specific than the evidences of the *khums* of *ghanīmah,* in order to be preferred to it by specification. But his mere specification is a matter of investigation because it is the essential pre-requisite of the identification, if more specific be the main subject matter of one of the two evidences then the subject matter of the other, the position of the more specific being firmly established, because the subject matter of the evidence of the Muslim's ownership is the conquered land, and, the subject matter of the evidences of the *ghanīmah* is *ghanīmah* and it is known that the conquered land is more specific than the natural *ghanīmah* for it is a species of it. But if the essential pre-requisite of the more specific be the observation of all sides and conditions of intensive to the verdict, then the relation of the position between the two evidences will be in respect of totality, because it will take difference of the subject matter of *ghanīmah* and the subject matter of the land acquired as booty at that time. The subject matter of agreement between them will be the seized land while the division between them will be the *khums* of things other than the land, on the one hand and other than *khums* of the rest of the seized land on the other hand.

Obviously, here there is no complete measure for the identification of the more specific; rather, the situation will vary with the variances of the occasions of legal practice (*'urfan*) as detailed in the explanation of the *uṣūl* (principle) of jurisprudence.

But if the second is intended, that is, the projection of the contradiction between the two applications of the two evidences, and the obligation of cancellation and the admission of there being not more specific, then it may be replied, that if contradiction is given up then giving of preference of the application of the evidences (texts) of *khums of ghanīmah* to the application of the evidence of Muslim's ownership of the conquered lands can be held for two reasons: -

One of the reasons is that in the evidences of *khums,* there is a verse of the Holy Qur'ān which occurs in respect of *khums*. We have

ascertained in the right place that the opponent of the Holy Book, for instance, in respect of totality will fail as an argument, in the matter of agreement and the Qur'ānic totality or absoluteness will be preferred to it in accordance with the imperative texts with the discarding of what conflicts with the Holy Book.

The second reason is, that the implication of the evidence of Muslim's ownership due to the top of agreement, is in general and by the preludes of wisdom and philosophy (the Prophet's saying), while implication of the whole evidences of the *khums* of *ghanīmah* due to the conquered land in totality; like the report of the tradition by Abū Basīr: ("Everything fought for on the attestation that there is no god but Allāh") is subject to *khums.* Likewise, the holy verse of the Glorious Qur'ān. As for the tradition, it begins with the particle of totality *'kul',* while as for the holy verse, though it does not contain the particle of totality yet the phrase, "every thing" in the holy words: *and know that every thing which you seize as booty* takes the place of the particle of totality as regards the meaning according to Islamic legal practice form applying oneself to the verse for the comprehension of its literary meaning and the verbal totality is given preference, in situation of conflict to the preludes of wisdom established without exception.

Thus, we learn that the reply in answer to the adherence to the application of the evidences (texts) of *ghanīmah,* needs another approximation.

The Ascertainment:

The uncertainty of the imposition of the *khums* on conquered land as we have found in our discussion of it in this book; and that is because in the *ghanīmah* traditions, there is nothing which is fit for inferring from it by the application of it to the proof of the imposition of *khums* on the conquered land except the above mentioned tradition reported by Abū Basīr, because other traditions, in fact, are in between being either weak of authority like the traditions of confinement of *khums* in five things, or discarded in confliction, like the tradition reported by Ibn Sinān: "No *khums* except in special *ghanīmah* (spoils of war)" or hemmed in by special link other than land of the *ghanīmah,* like the traditions on the extraction of *khums* of the *ghanīmah;* and the distribution of the rest

among the participants of war, because the distribution (of the spoils of war) among the participants of war, indicates that their occurrence is in respect of the movable spoils of war.

Thus, we learn that the application of the tradition of Abū Basīr added to the holy verses is limited to *ghanīmah.* These two applications are the prop of the proof or the certainty of the *khums,* but nothing comes about from the two upon their later ascertainment.

As for the verse, it is that its subject matter has been explained in the *ṣaḥīḥ* (sound) tradition reported by Ibn Mahziyār as the profit a man acquires. In the light of this explanation, the subject matter of the verse would be an expression of private profit, while the evidence of the Muslim's ownership of the conquered land excludes it from its being a private profit. So, the subject matter of *ghanīmah* cannot apply to the meaning of the interpreter in *ṣaḥīḥ.* Hence there remains no application for the verse which implies the forcibly conquered land.

As for the tradition reported by Abū Baṣīr, it will be replied from two sides.

One, that the holy verse in view of the true tradition reported by Ibn Mahziyār, which explains it will be restricted to the tradition reported by Abū Baṣīr, inasmuch as when it applies to the property, the caption of profit, and that is because the verse demands that the *khums* be established with the caption of profit and tradition reported by Abū Basīr demands that it be confirmed by property being -the property fought upon. Rather, it has to do with the caption of profit in that respect. Therefore, either of them, in accordance with the need of its application, implies that the caption taken from it be the entire subject matter of the *khums* of the *ghanīmah.* With the revolving of the matter in the mind between the two applications of the tradition, lifting of hand from the application of the tradition reported by Abū Baṣīr restricting it to the caption taken from it, that is, profit; and that is because the restraint, without exception, is there; and the necessity of non-interference of the caption of profit directly in the matter *khums* of the *ghanīmah* leads either to the removal of the *khums* of *the ghanīmah* from the application of the verse and turn it to other sources of *khums,* or, to the necessity that the verse, even if it implies to the *khums of* the *ghanīmah,* is nothing but a caption taken from it, that is, the profit, and it has nothing to do with this subject matter of *khums* at all; and both

cases are invalid.

As for the removal of the *khums* of the *ghanīmah* from the application of the verse, it is obvious that the *khums* of the *ghanīmah* is a sure Divine Decree from the verse because it is the source of the *sunnah* of the Prophet and his application of it. So, there can be no necessity for the removal of it. As for the caption taken from the subject matter of the verse, that is, *ghanīmah,* in the sense of private profit, that too is invalid, because when the matter runs between the discussion of cancellation of the caption taken as regards either *of* the two evidences (texts) directly on the basis of objectivity restriction of the deduced caption taken in respect of the other proof it will be allocated to the second and in the place of the imperative, likewise. So, there is no escape from the obligation of restricting the subject matter of the tradition reported by Abū Basīr to the caption of profit.

However, if it is said that this also makes cancellation of the caption taken from the tradition reported by Abū Baṣīr imperative, that is, the caption, what is fought upon (spoils of war) because profit in itself is an essential pre-requisite of the *khums* even regarding of source other than those fought upon, (spoils other than war booties acquired from the enemy without blood-shed).

We would say: It does not make it imperative, on the contrary, caption of fighting the subject matter of the inner core of the *khums* of the *ghanīmah* to the extent of the caption of the thought of capital as regards the subject matter of the *khums* of the mines and its effect is the proof of imposition on property in its entirety without the exception of the provision contrary to the caption of the profit alone, that is, the basis of the pre-requisite essential of the *khums,* after the exception and not for the whole.

It clearly follows from this that the restraint as to the application of the tradition which needs the caption derived from it to be the whole of the subject matter, makes cancellation of the caption derived from the verse in respect of the *khums* of the *ghanīmah* directly necessary or the restricting of the application of the tradition to the verse after the exposition and the necessity that the subject matter of *khums* consists of fighting and the veracity of the caption of profit. There is no danger therein (object of precaution) of the giving up of the caption directly.

So, if that is proved the reasoning by the tradition falls down

because the caption of the private profit will not apply to the land after its being a public endowment for (the benefit of) the Muslims to the Day of Judgement.

This is the whole of the first sides of the reply to the reasoning with the tradition reported by Abū Baṣīr.

As for the second side, the gist of it is:

That the application of the tradition reported by Abū Baṣīr conflicts with the traditions implying their application to the ownership of Muslims for the whole of the conquered land. The lands so acquired are of two kinds. First, the land taken by sword and second the green land (Iraqian land).

As for the first kind of the relation between it and the tradition by Abū Basīr being on the assumption of totality is subject to it and it cannot conflict with it because the application of it is by the preludes of prophecy, while the totality of the tradition by Abū Baṣīr is declaratory.

As for the second kind, as the caption of it is arable land (Iraqian land) it is a mark of a land which is limited abroad. So its implication will be by verbal appearance, not by the prophecy, and at such a time it will be good for conflict with the tradition by Abū Baṣīr. This means that the tradition by Abū Baṣīr will only happen to be a side of conflict in the first grade with the second kind particularly and after the elimination of both sides, the shift will amount to the first in its turn without (any) conflict, because the first kind in view of itself subject to it, due to the basis of totality in the tradition of Abū Baṣīr. It is impossible that it will come to be a side of the conflict with it in the first grade so that it will fall (be eliminated) with its falling (elimination).

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- 2 -

DISCUSSION ABOUT THE INCLUSION OF WASTE-LAND OF CONQUEST IN THE LAW OF THE TAXLAND

It is stated, as in *ar-Riyāḍ* that the texts indicative of the fact that the waste-land from a part of *anfāl* is a property of al-Imām, come in conflict on the basis of direction in respect of totally with the previously mentioned texts indicative of the fact that the land acquired by sword belongs to the Muslims, and the confrontation of the conflict is the waste-land conquered by force, because as a waste-land the texts of the Imām's ownership of the tax-land imply it and as force is subsumed under the texts of the Muslim's ownership of the tax-land according to the saying, 'what is seized with sword belongs to the Muslims'. So, what is the juridical justification for the taking of the texts of the Imām's ownership and the applying them to the conquered land, when they are waste-land and disregarding the texts of the Muslim's ownership and applying them (to it).

It may be answered to this objection that the subject matter of the texts of the Muslim's ownership is the properties which Muslims seize as spoils of war from the unbelievers. The seized spoils from the unbelievers are the properties which the unbelievers are the properties which the unbelievers own, whereas the waste-land is not the owned property of anyone of them. They own only the land which they cultivate, so the waste-land is then the subject matter of those texts.

This reply is valid only on the basis of the first of the two hypotheses, which we have previously mentioned in the first appendix in respect of the subject matter of the texts of the *ghanīmah.* But if we take the second hypothesis and say that the *ghanīmah is* what is seized by sword is abroad, then in that case the application of the subject matter of the texts of the *ghanīmah* does not depend upon the seized property on the basis of its being a property of an unbeliever but the property being under the control of unbelievers will be sufficient for its application, so as to take it from them.

Therefore, every property seized in the war from under the possession and control of an unbeliever would constitute *ghanīmah,* whether it be or not be the property of any of them. Now, it is obvious that a waste-land in the unbelievers' country will be regarded as being under the control and possession of the unbelievers of that country. So, by its occupation, on the part of the Muslims, it will confirm the fact that it was taken by sword even if it was not the property of a definite enemy. So, the conflict is towards totality as regards is being established.

For all that the texts of the Imām's ownership are submitted for the following technical reasons:

Firstly: The texts of the Imām's ownership can be classified under two sets. Those which occur with the wording, 'lands which are waste-lands' belong to the Imām; and those which occur with the wording, 'lands which are ownerless belong to the Imām'.

Clearly, the second set of the texts of the Imām's ownership cannot conflict with the text of tax-lands indicating the ownership of the Muslims, on the level of the first set in order to eliminate both sets in situation of conflict at the same grade. And, it is because the texts of the tax-lands prove (are indicative of) the Muslim's ownership of the conquered land, governing. So, such term the second set since they separate the land from its being a land having no owner and makes Muslims its owner.

Therefore, it is impossible for the second set in such a case to happen to be the side of the conflict with the traditions of the ownership of Muslims because the governed will not contradict the evidence of the governing. The outcome of it will be that the conflict in the first grade centres upon between the texts of the ownership of the Muslims and the first set of the texts of the ownership of the Imām; and after the falling in

succession we will get to the second set of the texts of the owner-ship of the Imām without the conflict (contradiction) only if by the addition of a declaratory *istiṣḥāb* (the seeking of link – i.e., to something which is known and certain) which trains its subject matter – which is the non-existence of (absence) of the owner of the land.

Secondly: In the texts of the ownership of the Imām, there are terms which indicate exhaustiveness of the totality of the ownership, like the saying, ‘every land which is waste-land belongs to the Imām’. Whereas, the texts about the tax-land indicate the ownership totally and total is preferred to the absolute when the capital between the two is in respect of the direction of the totality.

Thirdly: If we admit the elimination of the two parts of the conflict, recourse to the above-mentioned total ownership of the Imām will become incumbent, as stated above that the whole of the land is the property of the Imām because this totality is apt for the authority after the gradual elimination of the conflicting texts.

Fourthly: If the two sets are eliminated and if we disregard the above-mentioned competent authority the *istiṣḥāb,* a competent authority is made possible because the waste-land was the property of the Imām before the Islamic conquest of the country in accordance with the texts of the Imām’s ownership of the waste-land, and implies Muslim’s ownership is of it only by conquest in case of the assumption of the guarded elimination of the application of the texts by conflict, the ownership will be sought to be linked with the Imām. But this reason is fulfilled only in respect of the land which was conquered after the enactment of land as the Imām’s property, so as to become here a prior conviction of his ownership so as to make use of the *istiṣḥāb,* just as some of the former reasons will also be fulfilled in respect of some suppositions, condition in respect of them may change with the change of historical timing (time reckoning) of the enactment of the law of the Imām’s owner-ship of the *anfāl* and the enactment of the law of Muslim’s ownership of conquered land. The verification of the conquest is irrelevant leaving no room for its detailed statement.

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- 3 -

THE LEGAL EFFECT OF *AT-TAḤJĪR*

Many jurists think that *at-taḥjīr* (putting a protective en-closure round a land) gives the person who sets up the enclosure a private right to the land around which he sets up the enclosure (sequesters it) and prevents others access to it. In that, they rely upon the traditions which are unsound from the point of their chain of authority (*sanad*) and there is no reliance that could be placed upon them. Therefore, there is no competent, pious evidence as to the subject matter. It can be said that fencing cannot be considered a ground for private right as a separate independent operation. It can be regarded thus only as a beginning of the rehabilitation and the beginning of the work of cultivation and rehabilitation.

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- 4 -

THE DISCUSSION AS TO WHETHER THE OWNERSHIP OR RIGHT (TITLE) IS THE EFFECT OF REHABILITATION (OF A WASTE-LAND)

Opposed to that set of the texts which indicates (imply) explicitly – the rehabilitated land – remaining the property of the Imām and his right to the *kharaj* (land-tax) thereon. There are found two sets of texts which imply the proprietorship of the rehabilitator of the land he has rehabilitated and is not being responsible for anything in respect of it. One gives here the meaning of them at the level of appearance, and the other indicates (implies) it explicitly.

As for the first set of the texts they are just like what is mentioned in the tradition by Muḥammad ibn Muslim on the authority of the *Ahlu'l-bayt* (a.s.): "Whoever rehabilitates a portion of the land will have more right to it and that it will be his". For the *'lām'* (genative) in the phrase *'lahum'* implies competent authority while the literal meaning of its application to competent authority – a manner of ownership.

As for the second set of the texts the example of it is a tradition reported by 'Abdullāh ibn Sinān on the authority of Abū 'Abdillāh (a.s.). He (Sinai)) said: "While I was present a question was asked of the Imām, about a person who had rehabilitated a waste-land, had dug out stream, built houses and thereon planted palm-groves and trees." The Imām replied: "The land was his and the rent accruing from the houses. But he

will have to pay the *'ushrā* (tithe – i.e., *zakāt*)*."* His con-tenting himself with the mention of *zakāt* in the place of the determination of what was due upon him, is like making explicit statements as to the negation of the *kharaj* (land-tax) and the discontinuation of the relation of the Imām with the *riqbah* (physical ownership) of the land. Therefore, a remedy for the ending of the conflict between these two sets and the set referred to in the text, is inevitable.

It may perhaps be said, that this set is useless after the establishment of a definite decisive *sīrah* practice as regards the rehabilitator not giving the *kharaj* since the time of the Imām to this day. Likewise, there is no sense in carrying it to the time of the *ẓuhūr* of the Ḥujjah. So, it is necessary to lift our hands from it.

We answer to that with the denial of availing of the practice referred to, because if it is meant the practice of the jurist following devotionally text of *the Ahlu 'l-bayt* (a.s.)*,* it may perhaps be due to their not giving for remuneration of traditions declaring something lawful or permissible, not in view of the discontinuation of the Imām's relation with the land directly after its rehabilitation, and if it is meant for the practice of Muslims of other sects – then it is on account of their subscribing to another jurist principle. Or, it may perhaps be said that the companions have avoided from this set – indicating ownership of the Imām, so it is void as a basis of argumentation.

The reply to it is, firstly, that avoiding of a tradition does not make it void as a basis for argumentation as we have explained the *uṣūl* (Principle of Jurisprudence).

Secondly, avoiding of all jurists is not proved and mutual admission of all jurists as to the *de facto* invalidity of *ṭasq* (a fixed sum of land-tax) on account of the traditions declaring the lawfulness of permissibility of its meaning by all.

Thirdly, that if their avoidance of its meaning were admitted, it would perhaps be on account of the practices of the rules in the domain of contradiction and the preference of the contrary and not for particular faults therein.

According to this, the solution of the conflict is necessary to conceive reason for that:

First: to take the set ordering *kharaj* on the basis of *istiḥbāb* (presumption of accompanying circumstances) in combination of it with

what is explicit as to the invalidity of it.

It may be replied that this would be confusing the obligatory (*taklifiyyah*) *law* with the declaratory (*waḍʻiyyah*) law, because this integration will be valid in respect of *taklifiyyah* (obligatory) laws where the order in respect of it holds when the permission is arrived at on the basis of preference, and not of the declaratory laws, for the point of the validity of integration there, is absent here. Therefore, the reason for the taking evidence of the *taklīfī* (order to mean the obligatory) preference, after the occurrence of the permission, will be either constructed on the basis of the research scholar. an-Nā'inī, as regards the evidence of the obligatory nature of the order; and because the obligatory nature and the basis are not the two meanings of the word, rather the obligatory nature is drawn from reason's diction by the necessity of the furnishing of the wanted (demanded) of the *Mawlā* (the Lord) whenever mentioned thereof. Therefore, when the per-mission comes, the question of the obligatory nature factually disappears and is established by the integration of it with the comprehensive demand – the meaning of the word *istiḥbāb.* Or it may be on the basis of being obligatory nature established by the application of the meaning of the order so that the bearing demand from – *istiḥbāb* – to be restricted to the application which is the origin of the obligatory nature and to be restricted to the requirement of the rule. Or it may be on the basis of obligatory nature being a declaratory meaning towards a direction, since the bearing of *istiḥbāb* depends upon a claim of the existence of the literary sense of the secondary meaning of the version of *istiḥbāb* – choice or preference – reaching it into its turn after the lifting of hand from its first literary sense of necessity in order to be *istiḥbāb* established by literary sense and not by interpretation.

All this is not accomplished in the matter of the literary meaning of the statement of declaratory law just as in the place, since his statement ('let him pay the fixed amount of land-tax or the fixed land-tax') is practice (*ʻurfan*) an explanation of the indication for (the ownership of) ownership and not a naked defining (controlling) demand pure and simple. So it does not lead to the meaning of *istiḥbāb.*

The second reason: The set of traditions indicating explicitly the continuation of the ownership of the Imām gets eliminated in its disappearance coming in conflict with the explicit tradition in its

disappearance and ends up, in its turn, to the set of other literal traditions in its disappearance and gives to the rehabilitator the proprietor's right to the land in general. The reason for it is that this set of literal tradition cannot reasonably be a part of the conflict with the set of traditions which are explicit about the continuation of the Imām's ownership of a waste-land because the applicatory literal sense cannot be contrary to the explicit. Rather, the explicit tradition will be tied to it literally.

Accordingly, the conflict in the preceding category will be between the two sets of explicit traditions and will reach in their turn the applicatory literal sense without contradiction.

The idea of this explanation is based on the fundamental rule about the domain of contradiction. The rule is that when two sets of traditions come in conflict (where) one of which, in its entirety is explicit about negation, for example, and in the other wherein there is something which is explicit affirmation and that which literal as regards to it. Therefore, elimination of all of them in the same rank because of which is literal as to affirmation, cannot contradict that which is explicit as to negation, when the explicit is in a degree which fits with the contextuality of legal practice. The explicit as to affirmation contradicts the explicit as to negation only, and after their mutual elimination; and comes back to the literal sense of the negation not contrary as regards its rank.

This general rule, although it is not practically settled with the jurists yet is, in fact, an extension of the rule which is settled with them theoretically and practically. The rule is a restart to the above general after the mutual elimination of the two specifics because the very idea which demonstrates that the general (universal) cannot happen to be a part (side) of the contradiction at the level of the two specifics points to that in place of similar kind.

This reason, however, is based upon the determination of the elimination of the two explicit, one by one, and the non-preference of either. The explanation of the 'preferred' will be given later on.

The third reason: It is based upon the reversal of relation-ship on the pretext that the texts are opposed to each other in the direction of incongruity. The tradition of *taḥlīl* (making or declaring lawful or permissible) are limited to the text implying to the disownership of the rehabilitator and the proof (establishment) of *kharaj* (land-tax) due upon him, and removes from under it, the individuals whom the traditions of

taḥlīl includes. Therefore, the text, because of this becomes absolutely (in general) more moral specific than the text which negates *kharaj* (land-tax) absolutely (in general) and the contradiction disappears.

It may be replied to this – as an adjunct to the forms of the major reversal of relationship – that the reversal of relation-ship between the two universals (generals) incongruous (varying greatly) from each other, is accomplished only when the specific, happens to be with one of them, is opposed to the other of them in order to take the meaning of the corresponding universal, the source of the specific – and in the place of the traditions of *taḥlīl.* And if they were contrary or earmarked, they would not indicate the certainty of *kharaj* except that they are not in agreement with the negation of *kharaj* and implying the rehabilitator's proprietorship of the (rehabilitated) land because the literal sense of the negative universal is the explanation of the entire Divine Ordinance, and not declaring the proprietary permissible as is the intent of the traditions of *taḥlīl.*

The mention of some of the traditions of the negative set as regards the source of the Jews and Christians, a matter which is indicative of the fact that in connection with the statement of the private proprietary permission, so it cannot be taken to mean the source (origin) of the tradition of *taḥlīl* to be the reversal of relationship.

The fourth reason: That the two sets of texts contradict each other, and the text which is indicative of rehabilitator's proprietary ownership of the land is chosen either on account of its being *a mashhūr* tradition or on account of its conformity to universals of the definite practice of the Prophet, whereas in that the sentence: "He who rehabilitates a land, that land belongs to him", is *mutawātir* about them in general from the Prophet and Imāms. It indicates by the application of *'lām'* to the ownership and so it carries more weight for the text which is indicative of the rehabilitator's ownership of the rehabilitated land.

The reply to it is what we have mentioned in the *uṣūl* (Principle of Jurisprudence). It is that a tradition's being *mashhūr* (well-known) to a degree the issuance of which does not lead to its certainty, cannot have more weight. In the same way correspondence with *as-sunnatu 'l-qat'iyyah* (a decisive practice of the Prophet or Imāms) added to the fact of *sunnah* not reaching *tawātur* as regards position.

The fifth reason: That the text indicative of not giving possession of

the ownership of a land to the rehabilitator of it, and continuation of the Imām's proprietary ownership of it, carries greater weight in a place of one being contrary to the other and that is because the other text which conflicts with it is opposed to the universal of the Book (Qur'ān) and is presumably found in a place of suspicion. As for the universal of the Book, it is the declaration of Allāh, the High, "Do not appropriate each other's property. Invalidly except in the way of commerce with one another by mutual consent". This verse gives the verdict that every means of appropriation or taking possession of another's property except by way of commerce with mutual consent is invalid. Obviously, taking into possession of the property of the Imām by way of rehabilitation is not trading with mutual consent, so it is invalid by the application of the verse. Therefore, it will be what proves the rehabilitator's acquiring ownership of the land by rehabilitation according to the application of the verse. Therefore, it will have precedence, likewise the reality of the direction in respect of it, is decisive not what indicates to the rehabilitator's ownership, so consider well.

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- 5 -

DISCUSSION ABOUT THE PERMISSIBILITY OF THE SALE OF A REHABILITATED LAND ACCORDING TO ASH-SHAYKH AṬ-ṬŪSĪ

It is said that this (personal) opinion which denies the rehabilitator's acquiring ownership of the rehabilitated land is in-capable of explaining juristically its sale, because an individual on the basis of this (personal juristic) opinion does not acquire ownership of the land. So its sale is not permissible to him. He only acquires a right (of usufruct) to it, although permissibility (legality) of every individual's selling the land he rehabilitates is established self-evidently in the *sharī'ah* (Islamic Law).

The reply is: That the sale secures the conferring upon the buyer the same relationship which unites the seller with the property in return for the seller's acquisition of the same relation-ship which unites the buyer with the (purchase) money (price) regardless as to whether the relationship is at the level of owner-ship or at the level of right (of usufruct). Therefore, it is permissible to the man who rehabilitates a land to sell it because the man enjoys a personal relationship with the land. It is the relationship to which we technically give the name, right (to usufruct). There fore, it is possible for him to sell the land in sense of conferring upon the buyer this relationship in return for his acquisition of

the relationship of the buyer with the money (purchase-price). By this the buyer becomes the possessor of the right (of usufruct) to the land in place of the seller who possessed the right to it by the reason of rehabilitation while the seller becomes the owner of the money which the seller owned before the purchase.

An individual's sale of a land he has rehabilitated is explained by another reason. It is that the rehabilitator sells the right and not the land itself. But this explanation does not hold for selling of a thing means the seller's conferring to the buyer considerative relationship which unites him with the thing. Consequently the assumption of a considerative relationship holding between the seller and the sold thing (uniting the seller with the sold thing) is inevitable in order for the seller to confer it upon the buyer. Now the right is a legal prescription. But the possessor of the land holds no considerative relationship with that of the legal prescription like his relationship with all of his possessions.

For example, he does not own the legal prescription; or in other words a legal prescription is not saleable because of the non-existence of its adjunction or considerative connection with the seller. The right is only a legal prescription so its sale is not conceivable.

Add to it that it is the product which the buyer acquires possession of not the buyer becoming owner of the right (of usufruct), as meant, in the sense that if we take for granted the land being an owned thing of the seller like all his other belongings (possessions) then the sale of it will result in the buyer's acquiring the right of the seller and not to his earning of this right. What a difference there is between the buyer possessing the right of the seller and his right established to it of its own.

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- 6 -

ACQUISITION OF POSSESSION THROUGH CONTROL

On this basis, it does not create for an individual a private right of ownership of a territory (lit., land) such as forests, etc. conquered by force, just as it does not create for an individual a private right of ownership to a cultivated land-tax by rehabilitation before conquest.

It is sometimes said that naturally cultivated land can be had or owned on the basis (ground) of taking control (possession) of it since the control plays in regard of the naturally cultivated land the very role (part) which rehabilitation plays in the rehabilitation of naturally waste land. This saying relies for establishing owner-ship by reason of possession (control) upon the traditions indicating that "he who possesses (a thing) owns (it)" (possession is ownership). It may be remarked against this saying.

Firstly: That some of these traditions are of weak testimony (authority) so they have no force of argument and among them there is one which does not imply to this saying inasmuch as it is cited in context with the clarification of the indication of actual possession and has made possession a literary indication of the ownership and not a cause of it. And among them there is one which was cited in respect of specific or source, like the saying "to the hand belongs what it takes and to the eye belongs what it sees" , a tradition cited in respect of hunting.

Secondly: If the traditions of possession and control were admitted to be pertinent to the primarily main *mubāḥ* thing in which will not legally be owned by an agency or an individual then they will not imply the position in view of the fact that the supposed is that the forest is either the property of the *ummah* (community) or of the Imām.

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- 7 -

NO DISCRIMINATION BETWEEN THE KINDS OF LAND THE POSSESSORS OF WHICH HAVE EMBRACED ISLAM VOLUNTARILY

It is possible for one to conceive the possibility of discrimination between two kinds of lands the possessor of which has turned Muslim voluntarily. One of it is the kind of land's cultivation of which was extended historically to a period before the legislative enactment of the Imām's ownership of waste-land and the other, the kind of lands which were waste-lands at the time of the legislative enactment of the Imām's ownership of waste-lands, then the unbelievers restored them to cultivation and after that they embraced Islam voluntarily.

Therefore, every land of the first kind will be considered the property of their owners and will not be classified (entered in the record) as the property of the Imām, since it was not a waste-land at the time of the legislative enactment of the Imām's ownership of it. On its owner's turning Muslim they can keep it for themselves because Islam withhold from bloodshed and property (protects life and property).

As for the lands of the second kind, they are the property of the Imām in view of the fact that they were waste-lands at the time of the

legislative enactment of the Imām's ownership of waste-lands. Therefore, they are classified to be within the scope of the Imām's ownership. Their rehabilitation on the part of unbelievers thereafter should not deprive him of the property of them. It (the rehabilitation) only leads to in the establishment of their right (of usufruct) to them. Therefore, if they embraced Islam, while holding the land, this right of theirs will be protected for them, not the proprietary ownership of the land becoming their property as far as Islam spares and protects property and it neither adds to the property nor makes anyone other than the owner, the owner of it.

As a result of that the land the owner of which embraces Islam will be his property, if its cultivation were (took place) before the legislative enactment of the Imām's ownership of waste-land and he will not be put in possession of it (remain its master) if its cultivation were (took place) after that, he can keep to himself the private right in respect of it. This elaboration looks like the elaboration which the author of *al-Jawāhir* adopts about the conquest lands we have mentioned above in the first appendix where it is mentioned that "if its cultivation was (took place) before the legislative enactment of the Imām's ownership of a (rehabilitated) waste-land then it belongs to the Muslims, or else, it is the property of the Imām and the Muslims are not put in possession of it".

The justifications of the detailed statement about the land the owners of which have turned Muslim voluntarily in the legislative period (the early Islamic regime) includes (implies) the principle of the Imām's ownership but not an evidence on its becoming a property of a certain unbeliever who cultivated it and turned Muslim voluntarily while holding its ownership, neither by reason of his restoration of its cultivation nor by reason of Islam. As for restoration to cultivation, it does not confer upon its rehabilitator the proprietary ownership of the land on account of fact that rehabilitation means only competence (legal capacity). As for Islam, we do not find • anything which proves that it is a reason for a person taking possession of a land he holds when he embraces Islam. All the proofs which are advanced in respect of that are disputable.

a. An individuals mastery of a land by his holding it for the reason of his embracement of Islam is inferred from the application of the texts

which say, the land's, when the owner's of them will embrace Islam voluntarily, will be left in their possession and they will be theirs and they, on account of their application (the traditions) comprehend such of the lands the cultivation of which occurred before the enactment of the law of the Imām's ownership of waste-land and that land's the cultivation of which occurred after that.

The reply is that these texts have occurred in two traditions related by Ibn Abī Naṣr and all the ways in which both of them are narrated are weak and cannot be convincing proof in respect of them.

b. It may be inferred from general texts, pointing to the fact that Islam protects life and property and from the literal meaning of the texts of Islam's protection of property is the conferring of the land to its owner when he embraces Islam voluntarily.

The reply is: that the sense of these texts is that the property which a person's voluntary conversion to Islam spares and forbids the taking of which is the possession taking of which but would have been publicly lawful were it not for his conversion to Islam, for this side of the texts corresponds to the other side of them which expounds the rules of law as regards a belligerent unbeliever and both these sides as a whole make it clear that if an unbeliever wages war against the call to (mission of) Islam, his land, his possession and his life are made public property (taking of them is permitted) and if he embraces Islam voluntarily all these are spared. Then what is that to which they are entitled is the very thing the appropriation of (gaining control over) which would have been *mubāḥ* for (commonly permissible to) the Muslims, if he did not turn Muslim and contended the call to (mission of) Islam. So in order to know what is spared to him and what he acquires, if he turns Muslim, it is necessary for us to know, what of his possession would be *mubāḥ* (permissible for) and will be made over to the Muslims, if he did not accept Islam but con-tended against it.

In this connection it is necessary for us to recall what we have mentioned in appendix I that the land, the owner of which did not embrace Islam but was conquered by force, if the land was under cultivation before the legislative enactment of the Imām's ownership of waste-land, then it will be the property of the Muslims, and if its cultivation occurred after that, then it will be the property of the Imām because it was not a property of the unbeliever before the war but was a

property of the Imām. To the unbeliever belonged the right (of usufruct) to it before war on account of his rehabilitation of it and this right will be transferred to the Muslims.

Therefore, on the basis of it, we learn that the owners who embrace Islam voluntary would not be the owner of lands unless their recultivation occurred before the legislative enactment of the Imām's ownership of waste-land because the Muslims would not acquire their ownership on the hypothesis of war except on this hypothesis. In short, if we knew that the object, which is spared by the voluntary conversion to Islam is the very object which is captured as booty by a wage of war against the call to Islam in view of the sparing of life and property by (conversion to) Islam in the texts, corresponds to their lawfulness for the Muslims. We join to that the taking of proprietary right to the forcibly conquered (recovered waste-land) is not lawful for the Muslims if the recultivation of it took place after its legislative ownership of the Imām, as only the very right to it is lawful for them which the unbeliever acquired to it by reason of his rehabilitation of it. From these we may derive the conclusion; one who embraces Islam possessing a recultivated waste-land the recultivation of which occurred after the legislative of the Imām's ownership of waste land, will secure his right to the land which is supposed to be transferred to the Muslim if he wages war against the call to Islam. He does not own the land. He only owns the land only of its recultivation occurred before the age of Islamic legislation (formative period of Islamic Law).

Then, the principle of Islam does not add to the property (anything) nor confers new proprietary right which did not belong to it. It only preserves those rights and proprietorships which he enjoyed. As to the waste-land which an unbeliever puts to cultivation after the legislative enactment of the Imām's ownership of waste-land, the unbeliever does not become its master, he acquires only a right (of usufruct) to it, and it remains the property of the Imām. Then, by his voluntarily embracing Islam, he preserves his right and it continues to be his property as it was before, (i.e. in its status *quo* [*ante*]*)*.

c) It may be inferred from the customary practice (*sīratu 'n-nabiyy*) of the Prophet for the customary practice followed upon leaving in the hands of its owners, if they embrace Islam voluntarily without a scrutiny as to the date of the rehabilitation of the land and without demanding

from them a fixed land-tax for it, a matter which argues to the fact that Islam conferred always the ownership of a rehabilitated land upon the one who joined the fold of Islam voluntarily. The reply to it is that this is beyond any doubt established illustrious practice of the Prophet, but it does not demonstrate the ownership of the land's property of one who embraces Islam voluntarily and its being outside of the boundary of the Imām's ownership, because the practical differential between the land's ownership being of the one owning it by embracing Islam voluntarily and its being the Imām's property along with the existence of private right of one owning it be-coming Muslim voluntarily, because it only becomes apparent in respect of the imposition of *kharaj* (land-tax); for if the land were the property of its owners who have embraced Islam, there would be no justification for the imposition of the land-tax in respect of it upon them. But if they had a right (of usufruct) to it, while it continued to be the property of the Imām, the land-tax in respect of it will be due from him to the Imām. This practical differentiator (differential) has no place for it (is out of question) on the customary practice of the prophethood, for the Prophet used to forgive land-tax. Therefore, his not taking land-tax cannot be considered a proof of the exclusive (private) proprietorship of the land.

Thus, it becomes clear that this elaboration in respect of a land the owner of which voluntarily embraces Islam – between the lands rehabilitated before and the land rehabilitated after the legislative enactment of the Imām's ownership of waste-land, although it is not void of validity from the juridical point, yet, what interferes with its adoption is the consensus against it. So, recourse to consensus of the ownership of the land is absolutely to the owner of it, that is, the one who embraces Islam voluntarily, becomes inevitable.

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- 8 -

RULE ABOUT SPRINGS WHICH WELL UP IN AN OWNED LAND

The well-known juridical opinion holds that the natural springs which gush up in the property of a person will be deemed to be his property because they arose from his land. It was because of this that ash-Shaykh aṭ-Ṭūsī considers this kind of discovered natural sources of water constitutes a subject matter of controversy. He says as for the divergent is in respect of its being the owned. It is every well or a spring which arises in his property, the quarrel about it is on two fronts one of which is that it is owned, the other, that it is not owned.

The fact is that I do not find an argument to the ownership from the texts of the holy Books or the texts of *sunnah* (the practice of the Prophet). Possibly the strongest argument from which the supporters of the statement of ownership conclude is that the spring arose in the property and the legal texts which indicate that the growth of a possession pertains to its principle as regards ownership.

The reply to the argument is that a spring is not in fact a growth of his property in the sense of its being a fruit of his possession which he owns in order to acquire its ownership by his ownership of the principle, but is a wealth inside of a wealth, in its condition is that of the condition of a content and a container, not of a tree and its fruit, and the ownership of the container does not call for the ownership of the content.

In the light of this we learn that the well-known juridical opinion

holding the belief of the ownership should be adopted if it is supported by intellectual argument such as the pious (imitative) consensus or the customary, practice of the intellectuals which fulfils the conditions which we have expounded before-hand explicitly in the present book. Unless something of this nature supports it there exist nothing in the arguments specially that which would justify its adoption.

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- 9 -

DISCUSSION AS TO AN INDIVIDUAL'S TAKING POSSESSION OF A SPRING HE UNEARTHS

What has been already said in the book in regard to a person not becoming the owner of a spring of water he unearths (discovers) by digging it, was established on the basis of reason (ground) which is opposed to the well-known view which holds that he becomes its owner, and it specifically belongs to him and that is all.

This well-known view should be adopted if the initiative consensus on it has come about it but if no consensus like that has come about like that then there is a possibility of controversy (discussion) about the arguments which are put forth for the establishment of it. They are numerous, as follows:

a) A spring water is an outgrowth of his property. Therefore, if a man digs land and discovers spring water therein, the ownership will be legally his because it is on outgrowth of his property and as long as the land is his, whatever rises (outgrows) from it, will also be his.

The reply is that spring water cannot be regarded as a part of the growth of the land but is a wealth present therein. Therefore, the relationship between them is that of the container and the content. So the relationship between them cannot be compared with the correlation ship

obtaining between a principle and its natural product, the right of the possession to which is shown by the rules of the *sharī'ah* (Islamic Law) to follow from the ownership of the principle. For instance, the correlation between the egg and the hen of which it is the product and the correlation between the crop and the seed of which it is the fruit.

b) The meaning of the texts implying the permissibility of the sale of (the right to) the use of spring water (*shurb*) like the report of the tradition of Sa'īd al-A'raj (the lame) wherein the Imām is stated to have permitted the sale of a canal (aqueduct, conduit of water). Had it not been a (private) property its sale would not have been permissible.

The reply is the permission of sale is more general than the ownership. Entitlement to a thing is sufficient for the validity of a sale, so the sale may have been in view of the right which belongs to the individual in respect of the canal whence this right may be transferred to the buyer so that he becomes more entitled to it than anyone else just as the seller was. The assignment of the sale to the land itself does not negate this on the ground that the sale equally, if it was in respect of the right to the original or to its ownership, concerns only the entitled or the owned (thing) not with the right or ownership itself, as is clear. So reports of traditions of the permissibility of the sale of the canal when completed in respect of it, does not imply anything more than the entitlement.

c) The rules of the rehabilitation of a waste-land are applicable to discovery of spring water. It may be replied that the texts "he who rehabilitates a waste-land, the land is his", only shows rehabilitation's being the preparatory cause (*sabab*) for giving its inhabitant private right to it, not to what the land contains which the term 'land' (soil) cannot be applied, like the water contained therein. Add to that this. It does not import more than giving the rehabilitator a right (little) to the land according to the opinion of ash-Shaykh aṭ-Ṭūsī as we have already learnt.

d) By making discovery of a spring water and the possession of it. Ownership of every natural wealth is acquired by acquiring possession of it. The reply to it is that there does not exist any reliable (authentic) text implying that every (kind of) possession is the reason (preparatory cause) of its ownership.

e) The established prevalent local practice (*aṣ-ṣirātu'l-*

‘uqalāiyyah).

The reply is the possibility of proving the prohibition of the practice to anything more than the entitlement or priority. In that respect there is the least of doubt. Moreover add to it this. The prevailing local customary practice does not constitute to be *a ḥujjah* (an authority, argument, evidence) in itself, it becomes *a ḥujjah* only when as regard to its discovery from the execution of its legislator. There is usually only one way of discovering of the sanction of the legislator. It is as regard absence of restriction where it can be said that had he not undersigned (sanctioned) it, he would have restricted it. Then, before inferring from local prevailing customary practice the determination about the non-enforcement of the restriction becomes inevitable, at the time of confirming the knowledge of the sanctioning of it. But the determination about the un-enforcement of the restriction, cannot be asserted with the existence of some-thing in the report of a tradition which carry the sense of the restriction, even when incomplete as to its *sanad* (chain of authority) inasmuch as there probability of its occurrence of it, side by side with the restriction from the legislator, is sufficient for the incurrence of the determination about execution (about its sanction), for although a weak tradition cannot constitute on authority (argument) yet would be deemed sufficient, on the whole in all cases of the invalidation of the argument on the basis of prevailing local customary practice and the prevention of the determination about the execution (signature). This is a general point which should be taken in consideration in the totality of the occurrences of inference from the prevailing local customary practice.

On account of this we may state that a number of traditions mentioned now with the language that are co-sharers as to the use of water in the language of prohibition, forbidding of the use of surplus water and thirdly in the language of prohibition against the sale of a canal after one’s being in no need of it, lead at least to the probability of the occurrence of the restriction as to absolute appropriation, termed ownership.

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- 1 0 -

DISCUSSION ABOUT THE OBLIGATION OF LETTING (FREE) A CANAL AT THE TIME ONE IS NOT IN NEED OF IT

There are traditions which cause conflict between this set and the set of traditions which implies permissibility of the sale of the canal like the tradition reported by al-Kāhilī. He says: " A man asked Abū 'Abdillāh in my presence (while I was with him) about a canal, held among a people, with a known share of each as to the use of water of it. Now, a man from among them was in no need of the use of its water. The question asked was, as to whether the man could sell it in return for a quantity of wheat or barley. The Imām replied 'He may sell it for anything he wishes.' "There is nothing in this after the projecting of the conflict; the two may be reconciled by attributing the prohibitive traditions to dislike (*kirāhah*).

But on looking into them this reconciliation of them is found to be incomplete, since if conflict between them is hypothesized while the source of their both is about a topic, how can a prohibition be reconciled, even, if it be in the sense of dislike, with his statement. There is nothing in this. It is quite clear as regard its being free from all hostility, or doubt. A looking into the reconciliation of the two sets of the texts; it is found that the prohibitive set, like the trustworthy tradition of Abū Basīr

mentioned in the text, implies (points to) two things one of which is, the obligation of letting and making a free gift of it so that the one to whom it is let utilizes it after the possessor of the canal's satisfaction of his (irrigation) need; and the second the impermissibility of its sale. The second set of which of al-Kāhilī's, the above-mentioned report, is one, is not actually contradictory of (incompatible with) the first face to face on account of the fact that it does not point to (imply) the permissibility of letting to another of the canal. It only points to (implies) the permissibility of the sale does not necessitate the impermissibility of the letting of it. Do not imagine from the place of its being legally binding.

The pretext, that if lending of it was obligatory, there would remain no motive for the sale or it remaining an object of purchase, because one who would desire to, buy it would dispense with it by borrowing it gratis from him so long as it is legally bending upon him to lend it free of charge. Therefore, the very supposition of sale and the verdict as to its permissibility is legally binding as to the permissibility of lending it free of charge so as to confirm the nature of prevailing customary practice for buying and selling, inasmuch as it dashes off this delusion in that the obligation of the lending does not make purchasing and selling senseless. Since, it is just possible that he may not be content with the enjoyment of generosity conferred benefit free of charge by lending. But, he may rather have the desire to have it belong to him the right of priority to the canal just as it belonged to its possessor no longer needing it. This right is only transferred by purchasing and selling.

Accordingly, the set of texts implying permissibility of sale are not primarily inconsistent with the obligatory nature of lending (gratis). Yes! Certainly, the opposition happens to be between this set implying the permissibility of sale and the prohibitive set from the point of its second sense, (import) the impermissibility of the sale of the canal. The solution of this opposition is that the set prohibiting sale and the set ordering to lend carries two meanings in its prohibition, the first of which is, that it is a factual (real) prohibition of sale with an absolute statement; and the second that it is a prohibition of it *vis-à-vis* lending, in the sense that, do not compel a man who desires to take it as loan to buy it, rather then give it to him as a free loan. Therefore, it is prohibition of sale in cases the demand for loan and not an absolute prohibition of sale. But if the prohibition would be in the first sense, absolute prohibition of sale then a

contradiction will arise between and the set of texts implying permissibility of sale, and if in the second – not an absolute prohibition, then there will be no contradiction. Then it is desirable to be held that if the set of texts implying permissibility of sale are stronger than the appearance of the other set in the first sense if it has its appearance in respect of that and we do not hold hesitatingly between its two senses; or its appearance in the second, the appearance of permissibility will be given precedence and then will result from the combination of the two sets the permissibility of the obligatoriness of the lending of the surplus of the requirement from the canal to the other free of charge and the permissibility of its sale conclusive of the transfer of the right of exclusive (private) possession and priority to the buyer.

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-11-

THE ANNEXATION OF THE MINE TO THE LAND

By this we mean that in this respect the mine is like the land because the proof of the established right or mastery about a mine is mental (non-verbal – *labbi*) and cannot be held by its application, it is possible that *istiṣḥāb* (assumption of accompanying circumstance) may prevent its enforcement for more than one reason.

If it is held that the reports of tradition occurring about (the imposition of) *khums* on mines, ordering the extractor of the mine to pay *khums,* imply generally or necessarily to the ex-tractor being the owner of the other than *khums* of the mine. Accordingly the proof of the individual's mastery of the mine would be verbal not mental (non-verbal).

We hold, that these reports of the tradition are not in a position of clearness as to the rule about mines, and the right of the extractor regarding it to adhere to them for the establishment of that right on the occasion of doubts about its certainty but is only a statement of the certainty of the *khums* of the extracts from the mine which gives ownership to an individual by virtue of his extraction. So, it is not possible to prove – by these reports – the question of ownership of the remaining material in the mine as to whether they belong to the extractor

or not. But the point of our discussion is the material obtained from the mine and not what is staying there.

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-12-

OWNERSHIP OF A BIRD IS ACQUIRED BY HUNTING EVEN IF POSSESSION OF IT IS NOT ACCOMPLISHED

The statement of al-Imām ar-Riḍā (a.s.) in the collection of sound traditions (*ṣaḥīḥ*) to the effect that: "He who hunts two-winged bird, whose claimant of it is not known, is the owner of it" indicates what has been previously stated in this book (*Iqtiṣādunā*) because it established the fact that the bird will be judged to belong to the hunter by the mere confirmation of the capital hunting irrespective as to whether taking possession of it was accomplished or not. So, it includes the form of the release of the bird from the possession of the hunter as in the assumption which is explained (elsewhere) in this book and its meaning is that hunting itself is the reason as possession is, and this is attributable from the point of theory to the giving to the hunter the right of the opportunity (utility) which his work has created.

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- 1 3 -

DIFFERENCE BETWEEN OWNERSHIP BY HUNTING AND OWNERSHIP BY ACQUISITION (*ḤIYĀZAH*)

The juristic proof on that is the application of the statement of al-Imām aṣ-Sādiq (a.s.) given in the collection of sound traditions if 'a bird' possesses its two wings, it belongs to him who takes it. Indeed, this application includes as if this bird, the owner of its two wings was a bird to which another man was entitled before that by hunting and which thereafter recovered from his detainment (regained its freedom) and flew away.

It is held that this report of the tradition is tied to the tradition reported by Muḥammad ibn Faḍl and others wherein it is stated: "I asked him about the catching of a pigeon, worth one dirham or half of a dirham. He replied: 'If you know its owner, return it to him.' "

We hold that this text and its likes, even if tied to a preceding absolute text, yet, its mention is about whether the bird came under the control of its previous owner. This is learnt from the context of his statement, 'return it to him'. The order as to its return is evident about the fact that the supposed is the know-ledge of the other's previous actual control of it. As for the supposition of entitlement by more hunting (catching) without actual control and possession as in the form which we have discussed in the text which is given in the tradition reported by

Muḥammad ibn Faḍl will not be applicable on account of the capture of ‘return’ (*radd*) to it not being true.

So there results – after the consideration of the absolute (general) along with the tradition narrated by Ibnu ’1-Faḍl – the detailed statement between the thing when a person had gained control over a two-winged bird before and had mastered it by acquiring hold over it, and the thing when he may have mastered it and was entitled to it merely by catching it. In the first case, the bird will not be lawful for the one who caught it a second time, and in the second case it will be lawful.

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DISCUSSION ABOUT A PERSON'S RIGHT OF POSSESSION TO WHAT IN A DONOR'S OR AN AUTHORIZED REPRESENTATIVE'S OR AN EMPLOYEE'S ACQUISITION

The discussion is divisible in three parts:-

First Part: It is about the thing when an individual acquires for another man a property by way of service offered voluntarily, not by way of the power of attorney nor in consideration of compensation; will the latter take possession of it as his own?

The reply to this question should be made after leisure from the understanding of the connection of an acquisition, for some reason, with one who does not directly do anything to acquire it. That may be due to the fact that the one who puts himself to the task of appropriating the property may be meaning to do so, as a preliminary to another's appropriation and utilization of it. So, the pursuer's possession of the property will itself constitute a connection of the property with that person, putting him in the capacity of his being the one for whom it was acquired. So, the inquiry will be directed from the possessee's (recipient's) right of the possession of the property acquired.

But the reply to it will be in the negative and that on account of the non-existence of any of the elements (factors) which juristically imply

that they justify taking possession of a property by a person other than the one who does the work of acquiring the property accept waged labour contract or agency agreement possession itself only justifies the ownership of the acquirer and not of any other person and the possessee (the one for whom it was acquired) is not the acquirer. So, there does not exist any reason of his ownership by assigning to him the reason of owner-ship of him equally whether the reason be simply the execution of the process of acquisition, that is, its physical expression (actual possession) or the reason be the acquisition which the possessor executes in the way of an aimer and with the intention of the utilization of the things he acquired, because on either assumption there does not exist any justification of the possessee’s right to the possession of wealth which a person other than him has acquired it by his labour and effort. On the basis of the first which constitutes (physical) – side a sufficient reason of ownership, because the possessee has done nothing for appropriation so as to earn the ownership by way of it, while on the second basis, it is also likewise (i.e., he has nothing), because appropriation is the basis factor of the owned possessions in any case and it does not exist for the possessee of it.

The long and the short of the difference is between the two bases is that the immediate acquirer, who purposes the acquisition for another person owns the acqured property on the first basis because the material side of the acquisition is achieved by him, but on the second basis he does not possess it.

Second Part: It is about when an individual empowers (gives him the power of attorney) another individual in respect of an acquisition for him and the empowered one acquires it. This is the self – same assumption as the former with the addition of the assumption of power of attorney. After having settled from the former assumption, that it does not give the right of ownership to another person for whom the immediate acquirer acquires it. Here the talk leans to the casualty of the power of attorney for the principal’s taking possession (ownership) of the wealth of nature his agent (empowered attorney) acquires.

What can be said in respect of the justification of this casualty, is that the act of the agent by virtue of agency (power of attorney) pertains to derive from the principle, so the acquisition of the agent will be an acquisition of the principle just as the sole of the agent be the sole of his

principal. Therefore, the cause of the ownership will thereby become complete in respect of the principal.

The reply to this statement is that the act of the agent (attorney) is attributable to the principal only in legal and conventional matters like buying, selling, gift, hire, but not in creational (bodily performed) matters which are certainly attributed to the person who performs it. Therefore, a principal can verify by power of attorney that he has sold his book, if his authorized agent has sold it. But he cannot verify that he visited so-and-so, if he gives a person the power to pay visit to him for the attribution of the visit to the visitor is a creational (bodily performed) act contrary to the attribution of the selling to the seller, for the latter is a considerable (legal or conventional) matter capable of wider sense by legal practice (usage) to power of attorney. Acquisition in its capacity of an external appropriation, is a kind of visit which is not attributed to anyone other than the visitor merely by power of attorney (proxy) and is not a sort of selling and gift.

On this basis, we hold that authenticity in considerable legal matters, like sale and such like transactions is established with proofs in accordance with conformity to the rule; about their establishment of the self same common primary proofs are sufficient. For example, the authenticity of the owner's sale, because of the power of attorney (proxy), in view of the fact that it results in attribution of the sale of the proxy (attorney, authorized deputy) to the principal, determines (confirms) there-by the criterion for the application of the primary proof indicating the validity of the sale without needing a pertinent (specific) legal proof about the authenticity of the power of attorney.

But in creational matters other than considerable, since mere power of attorney does not achieve its capability of wider sense to creational as regards attribution, (attribution of the act per-formed by the proxy to the principal in bodily performed matters like paying visit). Therefore, the validity of the power of attorney, and the reduction of the act of the proxy to the act of the principal needs, as regard legal tradition, a specific pertinent proof. The primary proof indicating the assignation of that tradition on the basis of it will not be sufficient.

Since there is no application from the traditions, the principal calls for the disassignation of the tradition of the principal's act to the act of the proxy (agent) in creational matters unless a specific proof is got up on

the devotional reduction from the law giver. But in the field of acquisition and possession, no such proof is established, so the power of attorney is made null and void in such matters.

Third Part: It is about when an individual hires another individual to obtain for him *mubāḥ* thing (*res nullis* things free and open to all): Will he become the owner of what his employee acquire or will he not? This part is divisible in two-side issues or derivatives.

One-side issue is about when the hire concerns a specified share of the acquisition, that is, the acquisition of the hire for the hirer, in such a manner that the hirer is able to take possession of this share of the hiree's work.

The second issue is about when it concerns the nature of the acquisition.

As for the first side issue, it is about when the hire concerns (the hiree's) acquisition for the hirer of it; sometime it may be taken for granted that the hireling is entitled to another share of the acquisition as if when he acquired for himself, and at another times it may be taken for granted that he acquired for the hirer in accordance with the terms on which he was hired.

On the first assumption there is no doubt as regards the hirer's not taking possession of what the hireling acquired because the acquisition which occurred from him was not his property, nor did it rest upon the hire contract to be thought of as an outcome of it.

As for the second supposition from the first side issue, and it is that which the hireling acquires for the hirer in accordance with hire contract, here there is nothing to distinguish it by juridical discussion from the second side issue, it is, about when it concerns the nature of the hire acquisition since there is found nothing in it to imply its being a justification of the hirer's taking possession of the wealth a hireling acquires, save hire contract. Therefore, if it were admitted about this supposition that the hirer takes possession of what his hireling acquires, then it is admitted only on the basis of the execution of the contract and this basis itself is also established in the second side issue.

Thus, it requires concentration of the supposition, the discussion from the second of the first side issue, and from the second side issue of this point, which is:

Can the hire contract be the cause or reason of the hirer's right of

ownership to the natural wealth his hireling acquires?

It is juristically obvious that primary meaning of the hire contract and its real role constitute the conferment upon the hirer the usufruct of the hired property like residing in a hired house and the hiree's benefit of the hired labour; and the benefit of the hireling is his labour with which the Status is established like the establishment of the status of usufruct with the living in the hired house.

This will mean regarding the object of discussion is that of what the hirer takes possession of is the work of the hiree, that is, the acquisition of the usufruct established thereby. As for the acquired object, that is, the wealth (material) acquired if that is what were to take possession of belongs to the hirer, then this is not directly the meaning of the hire contract. On the contrary, it is invariably the result of his taking possession of the acquisition. Just as when we supposed that the right to the possession of the acquisition is inseparable juristically from the right to possession of the object (acquired).

Thus, it becomes incumbent upon us to discuss this aspect juristically so as to see as to whether the right to possession of the acquisition is a cause or is inseparable from a kind of the right of the possession of the goods acquired.

At the juristic level there are several matters on which it is possible to rely for the justification of this casualty and the reasoning about the hirer's taking possession of the hiree's acquisition (being) a cause of the right to the possession of whatever property the hireling acquires. They are as follows:

The first: What is well-known from the book *al-Jawāhir* and from other books, that the acquired thing is the outcome of acquisition which hirer takes possession of and therefore he becomes owner of the property acquired, following the ownership of the acquisition for he who owns the original (the principal thing) owns its outcome (product).

This proof is between two explanations:

One of which is, that acquired property is the product (outgrowth) of the hirer's owned property like the product of a tree. Therefore, just as the owner of the tree constitutes to be the owner of its fruit on account of his ownership of the tree. Likewise, he will become the owner of the wood which his hireling acquires from the forest on account of his ownership of the acquisition which his hireling has executed.

The other is: acquisition is like tailoring work. Therefore, just as the product of the tailoring work is owned by the owner-ship of the tailoring work so in the same way the product of the acquisition after the legislator attributes to it the cause of the owned with the ownership of the acquisition, the product being sometimes in the form and sometime the thing itself without distinction, for the utility of everything is according to what it is.

As for the first explanation, it is incorrect, on account of the obviousness of the difference between the attribution of the acquired property to the acquisition and attribution of the fruit to the tree. The fruit is the natural product of the tree. As for the acquired wood, it is in no way the product of the acquisition but the thing which is produced by the acquisition is the falling of the wood under the control, that is the wood taken possession – not the wood itself. The argument only indicates the fact that one who owns a thing owns its product like the fruits of the trees and the eggs of the hens (he owns). As for the product in the metaphorical sense which is here applied to the wood acquired, it is not a proof of his taking possession of it by the right of his taking of the acquisition.

As for the second explanation, it could be replied to: first that the product of tailoring is not owned by the very hire-contract. Therefore, if a person engages a tailor for making, from a piece of woollen cloth, a shirt for him, he does not become the owner of the tailor's product the specific form whereby the woollen piece of cloth becomes a shirt, on account of the hire contract, but becomes the owner of the form (shirt) by his owner-ship of the very piece of woollen cloth established before his hire contract, as ownership of the material is, in law an outright ownership of all the shapes and forms that occur therein. Shapes and forms have no separate (autonomous, distinct, independent) ownership. (There is no ownership for shapes and forms apart from the things of which they are the forms or shapes)

Therefore, if we suppose that the piece of woollen cloth does not belong to the hirer but to someone else for whom it is permitted to have the right of its disposal, and the hirer was not in a position of owning the garment shape on account of the hire-contract. This means that the product of the work of the hireling, for example, the shape of the cloth can become the property of the hirer, if it happened in the material which

belonged to the hirer prior to the hire contract. Regarding the subject matter under discussion, since the wool acquired was not owned by the hirer before the hire contract, but was a public property free to all (one of the *mubāḥāt*) its deduction by analogy from the product of tailoring is absurd (invalid) on account of the existence of the differential.

Secondly: the product of the acquisition *vis-à-vis* the shape resulting from tailoring (the garment) is not the wool itself, but the ownership legally derived from the acquisition.

Therefore, it is the ownership of the property acquired in the case of acquisition which is equivalent to the specific shape of the tailoring work, so, if the analogy of acquisition with the tailoring became obscured, and if we disregarded the first objection, the result of that would be that the hirer takes possession of the ownership of the wool, not the wool itself and this has no meaning.

Second: if the acquisition of the hireling was owned by property of the hirer, then it is in fact his acquisition. The hirer owns the wool acquired in the capacity of its acquirer by the very acquisition of his hireling.

Therefore, our objection to this stand-point is:

First: the hirer's ownership of the hireling fulfils the attribution of the acquisition to the hirer with the attribution of the ownership not in terms of the attribution of the act (work) to the actor (worker), so that the hirer becomes the acquirer by the acquisition of the hired; nor is it the preparatory cause of an individual's right to the possession of a property (goods) but it is a cause of his being its acquirer of it and not his being the owner of his acquisition.

Second: if we admitted the attribution of the act itself – the acquisition – to the hirer on account of his ownership of it, even then it would not be helpful, because the proof of right of possession by acquisition is not a verbal proof so as to hold to it by its application. Rather it is non-verbal (mental) proof limited to the extent of certainty.

As for the claim of consensus that the hirer owns what his hireling acquires, it is not a claim of uncertain soundness; and if we admitted it, the above stated consensus will not be sufficient for establishing the ownership in the matter under discussion, for it is probable that the reliance of the many of the acquiesces in the above mentioned consensus is on their basis of conviction that the rules of the hire-

contract demand that from their belief about the correlation between the ownership of the acquisition and the object of the acquisition. As we do not admit this basis, with regard to us, it will not be submissively imitative consensus (we do not join with those who are unanimous about it).

Thirdly: that the practice of the ancient people (the local usage) is established on the hirer's right to possession of what-ever of the property the hireling acquires.

It is not possible for one to say that this practice according to us does not fulfil the reasons (grounds) for the knowledge of its existence and its range, and its diffusion in the law making age to a degree which determines its sanction from obtainable of prevention from it.

However, if we admitted this customary practice and the soundness of reasoning from it, only proves in respect of cases the inclusion of the customary practice for which is familiarly known; for the proof is verbal. So reasoning from it is possible – at that time only when the hireling intends the acquisition for the hirer's taking the possession of it and does not include any form if the hireling does not acquire with the intention for the hirer. For this form will not be a sure thing decisively from the customary practice.

Fourth: the claim of the proof of generalities and the applications of the soundness of the hiring to the wanted and that because it proves the soundness of the hire conformably with the matter under discussion and proves necessarily the hire's right to the possession of what the hireling acquires or else the hiring will be a bootless absurdity yielding no profit to the hirer, and so it would be, on account of it, null and void. Hence, the validity of hiring is inseparable from the hirer's right of ownership of the property acquired.

It may be replied to:

First: the hirer's profiting from (turning to the work of labour) the work of hireling is not limited to the right of possession of the acquired property. Rather, it is connected with the objective (intention) of the customary practice, the very acquisition itself and the wood taken from the forest by the hireling himself taking possession. So, the hire is not absurd in any case.

Second: if we admit the hire being absurd, and an absurd hire is specifically or definitively foreign to the proofs of the soundness of the

hire. Therefore, it is not correct to hold fast of those proofs for establishing its validity, besides the establishing of the right of the hirer to the possession of the acquired goods because it is holding fast to the general or absolute with the substitutive judicial error.

Add to this, the possibility of raising doubt as to the finding of the application of the proofs of hire, because in the reported sound traditions (*akhbār*) there is nothing which is in harmony with the reality of the statement with an absolute saying to hold fast their application. The verse of the holy Qur'ān: *"fulfil your contracts"* implies obligation not soundness, neither conformingly nor necessarily, and the saying of the holy Qur'ān: *"except that it be a commercial transaction carried out by mutual agreement"* is pertinent to trade, an evidence of buying and selling, and does include in it general ownership giving contracts.

Fifth: It is a saying of al-Imām aṣ-Ṣādiq (a.s.) in which he says: "One who hires himself out prohibit to himself his means of livelihood (*rizq*)."

This indicates that the hirer becomes the owner of what his hireling acquires; otherwise this saying will not be correct in general and would not apply to one who hires himself out for acquiring a thing and such like things. Hence, the application of the text and its inclusion of every hireling imply that the hirer and not the hireling becomes the owner of the acquired goods.

To this it may be replied in addition to the possibility of the disputation of the text – which this tradition does not occur with sound chain of authority. All the ways of its reporting are unsound as far as I know. So no reliance could be put upon it. Thus, we know in the light of all of these disputations, that the owner-ship of the hirer of all that his hireling acquires is not the cause to right possession of the property his hireling acquires.

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DISCUSSION THAT THE ACQUIREE AND NOT THE ACQUIRER IS THE OWNER (OF THE ACQUIRED PROPERTY)

It would be better to say that if a person acquires a natural wealth for another person, the ownership of it will be transferred to the person for whom it is acquired not on the basis that the pursuer of the acquisition is his representative or his hired employee but merely his being the one for whom it was acquired, because the evidence of the right of possession is the general practice (*sīrah*) about which it may be said that it is established on the acquirer's right of possession, irrespective as to whether he or someone else was the acquirer. The acquirer's right of possession not as being the acquirer so as to hinder what has been previously said (from the first side of previous appendix) that the acquirer is not the acquirer as a representative or the hirer, so as to oppose what has already been said from the two other sides of the preceding appendix, as to the fact that the contract of representation or hiring does not call for this.[1] Therefore, if this is completed, the meaning

[1] It may be observed on the basis of what has been said in the preceding appendix that the hirer's right of taking possession of what his hireling acquires, is sufficient juridical as to its proof the unfulfilled of the proof of the right to possession of pursuing hireling of its acquisition of it because he is a hireling,

of it will be that a person other the pursuer of the acquisition will become the owner of the acquired wealth in one (and only one) way, and it is the pursuer who intends its acquisition for him. But in no other way than this, a person other than the pursuer will become the owner of the acquired wealth and the acquirer of it, being his representative or his employee will not justify his right to the possession of it, because we have learnt that the validity of the representation in creative *(takwin)* matters requires a specific proof and that is absent here. The hire contract demands the hirer's taking possession of the acquisition of the hireling which is some of his work, not the object of the acquisition, that is, the acquired wealth.

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even if he pursues the acquisition. But the proof (argument) that acquisition is the cause of ownership is only a practice of local usage (a customary local practice) on account of the weakness of the authority of the traditions occurring on this subject — and we do not know that the practice of local usage during the legislative age used to confer upon the hireling the ownership of the acquired natural wealth. Therefore, when the hireling right to possession of acquired natural wealth is not proved, it will make it definite that the hirer will be the owner.

But this observation does not justify the hirer's ownership of the acquired natural wealth, even if it is accomplished, and we admitted along with its proof the absence of the proof of ownership of the hireling because the non-fulfilment of this proof does not mean its fulfilment of its opposite side.

We may possibly add to that: that this observation will not be dismissed in case of revival, about which a text there occurs to the effect that the land will be his who revives it! Because here there is ample proof that the person who revives the land is entitled to it and has a right to its ownership and here the reviver is the hireling, because it is he who pursues the process of reviving it. So, according to the application of the text, he will be the right owner.

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AN OBSERVATION ABOUT A SPECIFIC TEXT

It is held that the justification occurring in the text that this is guaranteed and that is not guaranteed. It means completely that the earning without a previous work or labour is impermissible if it is guaranteed. But if it is not guaranteed, then it is permissible like the difference between compensation which a middleman (an intermediary) pays to the owner, or the percentage he submits to the farmer if it happens to exceed that compensation.

This statement is valid to some extent with regard to the explanation of the justification and for the comprehension of the sphere of inquiry in other fields.

End of The Book “IQTISADUNA”